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प्राधिकार से प्रकाशित

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भाग ४

विषय-सूची

(क)	(1) मध्यप्रदेश विधेयक,	(2) प्रवर समिति के प्रतिवेदन,	(3) संसद में पुरःस्थापित विधेयक.
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भाग ४ (क)—कुछ नहीं

भाग ४ (ख)

संसद् के अधिनियम

विधि और विधायी कार्य विभाग

THE PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY ACT, 2013

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Bhopal, the 4th April 2014

No. 2199-82-XXI-A(Dr.)—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary, Part-II, Section I, dated the 19th September, 2013 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 18th September, 2013.

By order and in the name of the Governor of Madhya Pradesh,
RAJESH YADAV, Addl. Secy.

THE PENSION FUND REGULATORY AND DEVELOPMENT
AUTHORITY ACT, 2013

(ACT No. 23 OF 2013)

An Act to provide for the establishments of an Authority to promote old age income security by establishing, developing and regulating pension funds, to protect the interests of subscribers to schemes of pension funds and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Pension Fund Regulatory and Development Authority Act, 2013.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

**Short title,
extent and
commence-
ment.**

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "Authority" means the Pension Fund Regulatory and Development Authority established under sub-section (1) of section 3;

(b) "central recordkeeping agency" means an agency registered under section 27 to perform the functions of recordkeeping, accounting, administration and customer service for subscribers to schemes;

(c) "Chairperson" means the Chairperson of the Authority;

(d) "document" shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, in printed or in electronic version, which is intended to be used, or which may be used, by the Interim Pension Fund Regulatory and Development Authority, or Authority or an intermediary or any other entity connected with the National Pension System, for the purpose of recording that matter;

(e) "individual pension account" means an account of a subscriber, executed by a contract setting out the terms and conditions under the National Pension System;

(f) "Interim Pension Fund Regulatory and Development Authority" means the Interim Pension Fund Regulatory and Development Authority set up by the Central Government through Resolutions No. F.No. 5/7/2003-ECB&PR, dated the 10th October, 2003 and F.No. 1(6)/2007-PR, dated the 14th November, 2008;

(g) "intermediary" includes pension fund, central recordkeeping agency, National Pension System Trust, pension fund adviser, retirement adviser, point of presence and such other person or entity connected with collection, management, recordkeeping and distribution of accumulations;

(h) "member" means a member of the Authority and includes its Chairperson;

(i) "National Pension System" means the contributory pension system referred to in section 20 whereby contributions from a subscriber are collected and accumulated in an individual pension account using a system of points of presence, a central recordkeeping agency and pension funds as may be specified by regulations;

(j) "National Pension System Trust" means the Board of Trustees who hold the assets of subscribers for their benefit;

(k) "notification" means a notification published in the Official Gazette;

(l) "pension fund" means an intermediary which has been granted a certificate of registration under sub-section (3) of section 27 by the Authority as a pension fund for receiving contributions, accumulating them and making payments to the subscriber in the manner as may be specified by regulations;

(m) "Pension Regulatory and Development Fund" means the fund constituted under sub-section (1) of section 40;

(n) "point of presence" means an intermediary registered with the Authority under sub-section (3) of section 27 as a point of presence and capable of electronic connectivity with the central recordkeeping agency for the purposes of receiving and transmitting funds and instructions and pay out of funds;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "regulated assets" means the assets and properties, both tangible and intangible, owned, leased or developed by and other rights belonging to, the central recordkeeping agency;

(q) "regulations" means the regulations made by the Authority under this Act;

(r) "scheme" means a scheme of pension fund approved by the Authority under this Act;

(s) "Securities Appellate Tribunal" means a Securities Appellate Tribunal established under sub-section (1) of section 15K of the Securities and Exchange Board of India Act, 1992;

(i) "subscriber" includes a person who subscribes to a scheme of a pension fund;

(u) "Subscriber Education and Protection Fund" means the fund constituted under sub-section (1) of section 41;

10 of 1949.

(v) "Trustee Bank" means a banking company as defined in the Banking Regulation Act, 1949.

4 of 1938.

(2) Words and expressions used and not defined in this Act, but defined in—

1 of 1956.

(i) the Insurance Act, 1938;

42 of 1956.

(ii) the Companies Act, 1956;

15 of 1992.

(iii) the Securities Contracts (Regulation) Act, 1956; and

(iv) the Securities and Exchange Board of India Act, 1992,

shall have the meanings respectively assigned to them under those Acts.

CHAPTER II

PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY

3. (1) With effect from such date as the Central Government may, by notification, appoint, there shall be established, for the purposes of this Act, an Authority to be called the Pension Fund Regulatory and Development Authority.

Establishment and incorporation of Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

2 of 1985.

(3) The head office of the Authority shall be in the National Capital Region referred to in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985.

(4) The Authority may establish offices at other places in India.

4. The Authority shall consist of the following Members, namely:—

Composition of Authority.

(a) a Chairperson;

(b) three whole-time members; and

(c) three part-time members,

to be appointed by the Central Government from amongst persons of ability, integrity and standing and having knowledge and experience in economics or finance or law with at least one person from each discipline.

5. (1) The Chairperson and every whole-time member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for reappointment:

Term of office and conditions of service of Chairperson and members of Authority.

Provided that no person shall hold office as a Chairperson after he has attained the age of sixty-five years:

Provided further that no person shall hold office as a whole-time member after he has attained the age of sixty-two years.

(2) A part-time member shall hold office as such for a term not exceeding five years from the date on which he enters upon his office.

(3) The salary and allowances payable to, and other terms and conditions of service of, the members other than part-time members shall be such as may be prescribed.

(4) The part-time members shall receive such allowances as may be prescribed.

(5) The salary, allowances and other conditions of service of a member shall not be varied to his disadvantage after his appointment.

(6) Notwithstanding anything contained in sub-section (1) or sub-section (2), a member may—

(a) relinquish his office, by giving in writing to the Central Government, a notice of not less than thirty days; or

(b) be removed from his office in accordance with the provisions of section 6.

6. (1) The Central Government may remove from office the Chairperson or any other member who—

Removal of members from office.

(a) is, or at any time has been, adjudged as insolvent; or

(b) has become physically or mentally incapable of acting as a member; or

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member; or

(e) has, in the opinion of the Central Government, so abused his position as to render his continuance in office detrimental to the public interest.

(2) No such Chairperson or other member shall be removed under clause (d) or clause (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

Restriction on future employment of members.

7. (1) The Chairperson and the whole-time members shall not, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept—

(a) any employment either under the Central Government or under any State Government; or

(b) any appointment in any regulated entity in the pension sector.

(2) The Chairperson and the whole-time members of the Interim Pension Fund Regulatory and Development Authority holding the office as such before the commencement of this Act, shall not, on and after such commencement, accept any appointment in any regulated entity in the pension sector for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government.

Administrative powers of Chairperson.
Meetings of Authority.

8. The Chairperson shall have the powers of general superintendence and direction in respect of all administrative matters of the Authority.

9. (1) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be provided by regulations.

(2) The Chairperson or, if for any reason, he is unable to attend a meeting of the Authority, any other member chosen by the members present from amongst themselves at the meeting, shall preside at the meeting.

(3) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.

(4) If any member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the member shall not take part in any deliberation or decision of the Authority with respect to that matter.

Vacancies, etc., not to invalidate proceedings of Authority.

10. No act or proceeding of the Authority shall be invalid merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority; or

(b) any defect in the appointment of a person acting as a member of the Authority;

or

(c) any irregularity in the procedure of the Authority not affecting the merits of the case.

Officers and employees of Authority.

11. (1) The Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(2) The terms and other conditions of service of officers and other employees of the Authority appointed under sub-section (1) shall be such as may be determined by regulations.

CHAPTER III

EXTENT AND APPLICATION

12. (1) This Act shall apply to—

Extent and application.

(a) the National Pension System;

(b) any other pension scheme not regulated by any other enactment.

(2) Every pension scheme referred to in clause (b) shall conform to the regulations made by the Authority within such time as may be specified in the regulations.

(3) Notwithstanding anything contained in sub-section (1), the provisions of this Act shall not apply to—

(a) the schemes or funds under—

46 of 1948.

(i) the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948;

19 of 1952.

(ii) the Employees' Provident Funds and Miscellaneous Provisions Act, 1952;

4 of 1966.

(iii) the Seamen's Provident Fund Act, 1966;

Assam Act X of 1955.

(iv) the Assam Tea Plantations Provident Fund and Pension Fund Scheme Act, 1955; and

Jammu and Kashmir Act XV of 1961.

(v) the Jammu and Kashmir Employees' Provident Funds Act, 1961;

4 of 1938.

(b) contracts referred to in sub-section (1) of section 2 of the Insurance Act, 1938;

(c) any other pension scheme, which the Central Government may, by notification, exempt from the application of this Act;

61 of 1951.

(d) persons appointed before the 1st day of January, 2004 to public services in connection with the affairs of the Union, or to All-India Services constituted under section 2A of the All-India Services Act, 1951;

(e) persons appointed to public services in connection with the affairs of any State, or such Union territories as may be specified by notification by the Central Government.

(4) Notwithstanding anything contained in sub-section (3), any State Government or administrator of a Union territory may, by notification, extend the National Pension System to its employees.

(5) Notwithstanding anything contained in clause (c) of sub-section (3), the Central Government may, by notification, extend the application of this Act to any other pension scheme [including any other pension scheme exempted and notified under clause (c) of sub-section (3)].

(6) Any person governed under any of the schemes or funds referred to in sub-section (3) may, at his option, also join the National Pension System.

CHAPTER IV

TRANSFER OF ASSETS, LIABILITIES, ETC., OF INTERIM PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY

13. On and from the date of establishment of the Pension Fund Regulatory and Development Authority,—

(a) all the assets and liabilities of the Interim Pension Fund Regulatory and Development Authority shall stand transferred to, and vested in, the Authority.

Explanation.—The assets of the Interim Pension Fund Regulatory and Development Authority shall be deemed to include all rights and powers, all properties,

Transfer of assets, liabilities, etc., of Interim Pension Fund Regulatory and Development Authority.

whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of the Interim Pension Fund Regulatory and Development Authority and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(b) without prejudice to the provisions of clause (a), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Interim Pension Fund Regulatory and Development Authority immediately before that day, for or in connection with the purpose of the said Regulatory Authority, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Authority;

(c) all sums of money due to the Interim Pension Fund Regulatory and Development Authority immediately before that day shall be deemed to be due to the Authority; and

(d) all suits and other legal proceedings instituted or which could have been instituted by or against the Interim Pension Fund Regulatory and Development Authority immediately before that day may be continued or may be instituted by or against the Authority.

CHAPTER V

DUTIES, POWERS AND FUNCTIONS OF AUTHORITY

Duties,
powers and
functions of
Authority.

14. (1) Subject to the provisions of this Act and any other law for the time being in force, the Authority shall have the duty, to regulate, promote and ensure orderly growth of the National Pension System and pension schemes to which this Act applies and to protect the interests of subscribers of such System and schemes.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the powers and functions of the Authority shall include—

(a) regulating the National Pension System and the pension schemes to which this Act applies;

(b) approving the schemes, the terms and conditions thereof and laying down norms for the management of the corpus of the pension funds, including investment guidelines under such schemes;

(c) registering and regulating intermediaries;

(d) issuing to an intermediary, on application, a certificate of registration and renewing, modifying, withdrawing, suspending or cancelling such registration;

(e) protecting the interests of subscribers by—

(i) ensuring safety of the contribution of subscribers to various schemes of pension funds to which this Act applies;

(ii) ensuring that the intermediation and other operational costs under the National Pension System are economical and reasonable;

(f) establishing mechanism for redressal of grievances of subscribers to be determined by regulations;

(g) promoting professional organisations connected with the pension system;

(h) adjudication of disputes between intermediaries and between intermediaries and subscribers;

(i) collecting data and requiring the intermediaries to collect such data and undertaking and commissioning studies, research and projects;

(j) undertaking steps for educating subscribers and the general public on issues relating to pension, retirement savings and related issues and training of intermediaries;

(k) standardising dissemination of information about performance of pension funds and performance benchmarks;

(l) regulating the regulated assets;

(m) levying fees or other charges for carrying out the purposes of this Act;

(n) specifying by regulations the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by intermediaries;

(o) calling for information from, undertaking inspection of, conducting inquiries and investigations including audit of, intermediaries and other entities or organisations connected with pension funds;

(p) exercising such other powers and functions as may be prescribed.

5 of 1908.

(3) Notwithstanding anything contained in any other law for the time being in force, while exercising the powers under clause (o) of sub-section (2), the Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:—

(i) the discovery and production of books of account and other documents, at such place and at such time as may be specified by the Authority;

(ii) summoning and enforcing the attendance of persons and examining them on oath;

(iii) inspection of any book, register and other document of any person or intermediary referred to in section 26, at any place;

(iv) issuing commissions for the examination of witnesses or documents;

(v) any other matter which may be prescribed.

(4) Without prejudice to the provisions contained in sub-sections (1), (2) and (3) and section 16, the Authority may, by order, for reasons to be recorded in writing, in the interest of subscribers, take any of the following measures, pending investigation or inquiry, namely:—

(i) restrain persons from participating in any scheme;

(ii) restrain any office bearer of an intermediary from acting as such;

(iii) impound and retain the proceeds under the scheme in respect of any activity which is under investigation;

(iv) attach, after passing an order, on an application made for approval, by the Judicial Magistrate of first class having jurisdiction, for a period not exceeding one month, one or more bank account or accounts of any intermediary or any person associated with the scheme in any manner involved in violation of any of the provisions of this Act or the rules or the regulations made thereunder:

Provided that only the bank account or accounts or any transaction entered therein, relating to the proceeds actually involved in the violation of any of the provisions of this Act or the rules or the regulations made thereunder shall be allowed to be attached;

(v) direct any intermediary or any person associated with the scheme in any manner not to dispose of or alienate an asset forming part of any activity which is under investigation:

Provided that the Authority shall, either before or after, passing such orders, under this section, give to such intermediaries or persons concerned an opportunity of being heard.

Power to issue directions.

15. Save as otherwise provided in section 14, if after making, or causing to be made, an inquiry, the Authority is satisfied that it is necessary—

(i) in the interests of subscribers or orderly development of National Pension System or a pension scheme to which this Act applies; or

(ii) to prevent the affairs of any intermediary or other persons or entities referred to in section 27 being conducted in a manner detrimental to the interests of subscribers; or

(iii) to secure the proper management of any such intermediary or person or entity,

it may issue such directions to such intermediaries or entities or to any person or class of persons referred to in section 27, or associated with the pension fund, as it may deem fit:

Provided that the Authority shall, either before or after passing such orders, give an opportunity of being heard to such intermediaries, entities or persons concerned.

Power of investigation.

16. (1) Where the Authority has a reasonable ground to believe that—

(a) the activities of the pension fund are being conducted in a manner detrimental to the interest of the subscriber; or

(b) any intermediary or any person associated with the schemes of the pension fund has violated any of the provisions of this Act or the rules or the regulations made or directions issued by the Authority thereunder,

it may, at any time, by order in writing, direct any person (hereafter in this section referred to as the Investigating Authority) specified in the order to investigate the affairs of such intermediary or persons associated with the pension fund and to report thereon to the Authority.

(2) Without prejudice to the provisions contained in sections 235 to 241 of the Companies Act, 1956, it shall be the duty of every manager, managing director, officer and other employee of the company, in case of a company and every intermediary or persons or entity referred to in section 27 or every person associated with the pension fund to preserve and to produce to the Investigating Authority or any person authorised by him in this behalf, all the books, registers, other documents and record of, or relating to, the company or, as the case may be, of or relating to, the intermediary or such person, which are in their custody or power. 1 of 1956.

(3) The Investigating Authority may require any intermediary or any person or entity associated with the pension fund in any manner to furnish such information to, or produce such books, or other documents, or record before him or any person authorised by him in this behalf as he may consider necessary if the furnishing of such information or the production of such books, or register, or other documents, or record is relevant or necessary for the purposes of its investigation.

(4) The Investigating Authority may keep in its custody any books, registers, other documents and record produced under sub-section (2) or sub-section (3) for six months and thereafter shall return the same to any intermediary or any person associated or entity with the pension fund by whom or on whose behalf the books, registers, other documents and record are produced:

Provided that the Investigating Authority may call for any book, register, other documents and record if they are required again:

Provided further that if the person on whose behalf the books, registers, other documents and record are produced requires certified copies of the books, registers, other documents or record produced before the Investigating Authority, it shall give certified copies of such books, registers, other documents or, as the case may be, record to such person or on whose behalf the books, registers, other documents and record were produced.

(5) Any person, directed to make an investigation under sub-section (1), may examine on oath any intermediary or any person associated with the pension fund in any manner, in relation to the affairs of his business and may administer an oath accordingly and for that purpose may require any of those persons to appear before him personally.

(6) Notes of any examination under sub-section (5) shall be taken down in writing and shall be read over to, or by, and signed by, the person examined, and may thereafter be used in evidence against him.

(7) If any person fails without reasonable cause or refuses—

(a) to produce to an Investigating Authority or any person authorised by him in this behalf any book, register, other document or record which it is his duty under sub-section (2) or sub-section (3) to furnish; or

(b) to furnish any information which it is his duty under sub-section (3) to furnish; or

(c) to appear before the Investigating Authority personally when required to do so under sub-section (5) or to answer any question which is put to him by the Investigating Authority in pursuance of that sub-section; or

(d) to sign the notes of any examination referred to in sub-section (6),

he shall be punishable with imprisonment for a term which may extend to one year, or with fine, which may extend to twenty-five crore rupees, or with both, and also with a further fine which may extend to ten lakh rupees for every day after the first day during which the failure or refusal continues.

17. (1) Where the Authority, in consequence of information in its possession, has reason to believe that—

Search and seizure.

(a) any person who has been required under sub-section (3) of section 16 to produce, or cause to be produced, any books, accounts or other documents in his custody or power has omitted or failed to produce, or cause to be produced, such books, accounts or other documents; or

(b) any person to whom a requisition to produce any books, accounts or other documents as aforesaid has been or might be issued will not, or would not, produce or cause to be produced, any books, accounts or other documents which will be useful for, or relevant to, an investigation under sub-section (1) of section 16; or

(c) a contravention of any provision of this Act has been committed or is likely to be committed by an intermediary; or

(d) any claim which is due to be settled by the intermediary, has been or is likely to be rejected or settled at a figure higher than a reasonable amount; or

(e) any claim which is due to be settled by an intermediary, has been or is likely to be rejected or settled at a figure lower than a reasonable amount; or

(f) any illegal fees and charges have been transacted or are likely to be transacted by an intermediary; or

(g) any books, accounts, papers, receipts, vouchers, survey reports or other documents, belonging to an intermediary are likely to be tampered with, falsified or manufactured,

it may authorise any officer of the Authority, not below the rank equivalent to that of a Gazetted Officer of the Government (hereafter referred to as the authorised officer), to—

(i) enter and search any building or place where he has reason to suspect that such books, accounts or other documents, or any books or papers relating to any claim, rebate or commission or any receipts, vouchers, reports or other documents are kept;

(ii) break open the lock of any box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;

(iii) seize all or any such books, accounts or other documents, found as a result of such search;

(iv) place marks of identification on such books, accounts or other documents or make or cause to be made extracts or copies therefrom.

(2) The authorised officer may requisition the services of any police officer or of any officer of the Central Government, or of both, to assist him for all or any of the purposes specified in sub-section (1) and it shall be the duty of every such police officer or officer to comply with such requisition.

(3) The authorised officer may, where it is not practicable to seize any such book, account or other document, specified in sub-section (1), serve an order on the person who is in immediate possession or control thereof that he shall not remove, part with or otherwise deal with it except with the previous permission of such officer and such officer may take such steps as may be necessary for ensuring compliance with this sub-section.

(4) The authorised officer may, during the course of the search or seizure, examine on oath any person who is found to be in possession or control of any books, accounts or other documents, and any statement made by such person during such examination may thereafter be used in evidence in any proceeding under this Act.

(5) The books, accounts, papers, receipts, vouchers, reports, or other documents seized under sub-section (1) shall not be retained by the authorised officer for a period exceeding one hundred and eighty days from the date of the seizure unless the reasons for retaining the same are recorded by him in writing and the approval of the Authority for such retention is obtained:

Provided that the Authority shall not authorise the retention of the books, accounts, papers, receipts, vouchers, reports, or other documents for a period exceeding thirty days after all the proceedings under this Act, for which the books, accounts, papers, receipts, vouchers, reports, or other documents are relevant, are completed.

(6) The person from whose custody the books, accounts, papers, receipts, vouchers, reports, or other documents are seized under sub-section (1) may make copies thereof, or take extracts therefrom, in the presence of the authorised officer or any other person empowered by him in this behalf at such place and time as the authorised officer may appoint in this behalf.

(7) If a person legally entitled to the books, accounts, papers, receipts, vouchers, reports or other documents seized under sub-section (1) objects for any reason to the approval given by the Authority under sub-section (5), he may make an application to the Central Government stating therein the reason for such objection and requesting for the return of the books, accounts, papers, receipts, vouchers, report or other documents.

(8) On receipt of the application under sub-section (7), the Central Government may, after giving the applicant an opportunity of being heard, pass such order as it thinks fit.

(9) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall apply, so far as may be, to every search and seizure made under sub-section (1).

2 of 1974.

(10) The Central Government may, by notification, make rules in relation to any search or seizure under this section and in particular, and without prejudice to the generality of the foregoing power, such rules may provide for the procedure to be followed by the authorised officer,—

(i) for obtaining ingress into such building or place to be searched where free ingress thereto is not available;

(ii) for ensuring safe custody of any books, accounts, papers, receipts, vouchers, reports, or other documents seized under this section.

18. If the Authority finds, after causing an inquiry to be made, that any person has violated, or is likely to violate, any provisions of this Act, or any rule or regulation made thereunder, the Authority may pass an order requiring such person to cease and desist from committing or causing such violation.

Power of Authority to ensure compliance.

19. (1) If at any time the Authority has reason to believe that the central recordkeeping agency or pension fund is acting in a manner likely to be prejudicial to the interest of subscribers, it may, after giving the central recordkeeping agency or pension fund, as the case may be, an opportunity of being heard, make a report thereon to the Central Government.

Management by Administrator.

(2) If the Central Government, after considering the report made under sub-section (1) is of the opinion, that it is necessary or proper to do so, it may appoint an Administrator to manage the affairs of the central recordkeeping agency or pension fund, as the case may be, under the direction and control of the Authority, in such manner as may be specified by notification.

CHAPTER VI

NATIONAL PENSION SYSTEM

20. (1) The contributory pension system notified by the Government of India in the Ministry of Finance *vide* notification number F. No. 5/7/2003-ECB&PR, dated the 22nd December, 2003, shall be deemed to be the National Pension System with effect from the 1st day of January, 2004, and such National Pension System may be amended from time to time by regulations.

National Pension System.

(2) Notwithstanding anything contained in the said notification, the National Pension System shall, on the commencement of this Act, have the following basic features, namely:—

(a) every subscriber shall have an individual pension account under the National Pension System;

(b) withdrawals, not exceeding twenty-five per cent. of the contribution made by the subscriber; may be permitted from the individual pension account subject to the conditions, such as purpose, frequency and limits, as may be specified by the regulations;

(c) the functions of recordkeeping, accounting and switching of options by the subscriber shall be effected by the central recordkeeping agency;

(d) there shall be a choice of multiple pension funds and multiple schemes:

Provided that—

(a) the subscriber shall have an option of investing up to hundred per cent. of his funds in Government Securities; and

(b) the subscriber, seeking minimum assured returns, shall have an option to invest his funds in such schemes providing minimum assured returns as may be notified by the Authority;

(e) there shall be portability of individual pension accounts in case of change of employment;

(f) collection and transmission of contributions and instructions shall be through points of presence to the central recordkeeping agency;

(g) there shall not be any implicit or explicit assurance of benefits except market-based guarantee mechanism to be purchased by the subscriber;

(h) a subscriber shall not exit from the National Pension System except as may be specified by the regulations; and

(i) at exit, the subscriber shall purchase an annuity from a life insurance company in accordance with the regulations.

(3) In addition to the individual pension account mentioned in clause (a) of sub-section (2), a subscriber may also, at his option, have an additional account under the

National Pension System having the features mentioned in clauses (c) to (g) of sub-section (2) and also having the additional feature that the subscriber shall be free to withdraw part or all of his money at any time from the additional account.

Central
Record-
keeping
Agency.

21. (1) The Authority shall, by granting a certificate of registration under sub-section (3) of section 27, appoint a central recordkeeping agency:

Provided that the Authority may, in public interest, appoint more than one central recordkeeping agency.

(2) The central recordkeeping agency shall be responsible for receiving instructions from subscribers through the points of presence, transmitting such instructions to pension funds, effecting switching instructions received from subscribers and discharging such other duties and functions, as may be assigned to it under the certificate of registration or as may be determined by regulations.

(3) All the assets and properties owned, leased or developed by the central recordkeeping agency, shall constitute regulated assets and upon expiry of certificate of registration or earlier revocation thereof, the Authority shall be entitled to appropriate and take over the regulated assets, either by itself or through an administrator or a person nominated by it in this behalf:

Provided that the central recordkeeping agency shall be entitled to be compensated the fair value, to be ascertained by the Authority, of such regulated assets as may be determined by regulations:

Provided further that where the earlier revocation of the certificate of registration is based on violation of the conditions in the certificate of registration or the provisions of this Act or regulations, unless otherwise determined by the Authority, the central recordkeeping agency shall not be entitled to claim any compensation in respect of such regulated assets.

Point of
presence.

22. (1) The Authority may, by granting a certificate of registration under sub-section (3) of section 27, permit one or more persons to act as a point of presence for the purpose of receiving contributions and instructions, transmitting them to the Trustee Bank or the central recordkeeping agency, as the case may be, and paying out benefits to subscribers in accordance with the regulations made by the Authority from time to time in this regard.

(2) A point of presence shall function in accordance with the terms of its certificate of registration and the regulations made under this Act.

Pension funds.

23. (1) The Authority may, by granting a certificate of registration under sub-section (3) of section 27, permit one or more persons to act as a pension fund for the purpose of receiving contributions, accumulating them and making payments to the subscriber in such manner as may be specified by regulations.

(2) The number of pension funds shall be determined by regulations and the Authority may, in public interest, vary the number of pension funds:

Provided that at least one of the pension funds shall be a Government company.

Explanation.—For the purposes of this sub-section, the expression “Government company” shall have the meaning assigned to it in section 617 of the Companies Act, 1956.

1 of 1956.

(3) The pension fund shall function in accordance with the terms of its certificate of registration and the regulations made under this Act.

(4) The pension fund shall manage the schemes in accordance with the regulations.

Certain
restrictions on
foreign
companies or
individual or
association of
persons.

24. The aggregate holding of equity shares by a foreign company either by itself or through its subsidiary companies or its nominees or by an individual or by an association of persons whether registered or not under any law of a country outside India taken in aggregate in the pension fund shall not exceed twenty-six per cent. of the paid-up capital of such fund or such percentage as may be approved for an Indian insurance company under the provisions of the Insurance Act, 1938, whichever is higher.

4 of 1938.

43 of 1961. *Explanation.*—For the purposes of this section, the expression “foreign company” shall have the meaning assigned to it in clause (23A) of section 2 of the Income-tax Act, 1961.

25. No pension fund shall, directly or indirectly invest outside India, the funds of subscribers.

Prohibition of investment of funds of subscribers outside India.

26. The central recordkeeping agency, points of presence and pension funds, shall satisfy the eligibility norms as may be specified by the regulations, including minimum capital requirement, past track-record including the ability to provide guaranteed returns, costs and fees, geographical reach, customer base, information technology capability, human resources and such other matters.

Eligibility norms of the central record-keeping agency, etc.

CHAPTER VII

REGISTRATION OF INTERMEDIARIES

27. (1) No intermediary, including a pension fund or a point of presence to the extent regulated under this Act, shall commence any activity relating to a pension fund except under and in accordance with the conditions of a certificate of registration granted by the Authority in accordance with the provisions of this Act and the regulations:

Registration of central record-keeping agency, pension fund, point of presence, etc.

Provided that any intermediary, including any point of presence, who had been associated with a pension scheme and appointed to act as such by the Interim Pension Fund Regulatory and Development Authority immediately before the establishment of the Authority under this Act for which no registration certificate was necessary prior to such establishment, and may continue to do so for a period of six months from such establishment or, if he has made an application for such registration within the said period of six months till the disposal of such application.

(2) Every application for grant of a certificate of registration under this Act shall be in such form and manner and shall be accompanied by such fees as may be determined by regulations.

(3) The Authority may, after considering the application and subject to such terms and conditions as it may specify, grant a certificate of registration as a central recordkeeping agency, point of presence, pension fund or such other intermediary, as the case may be.

(4) The Authority may, by order, suspend or cancel a certificate of registration granted under sub-section (3) in such manner as may be determined by regulations:

Provided that no order under this sub-section shall be made unless the person concerned has been given a reasonable opportunity of being heard.

CHAPTER VIII

PENALTIES AND ADJUDICATION

28. (1) Any person, who is required under this Act or any rules or regulations made thereunder,—

Penalty for failure by an intermediary or any other person to comply with provisions of this Act, rules, regulations and directions.

(a) to obtain a certificate of registration from the Authority for carrying on any activity under this Act, carries on such activities without obtaining such certificate of registration, he shall be liable to a penalty of one lakh rupees for each day during which the failure continues or one crore rupees, whichever is less;

(b) to comply with the terms and conditions of a certificate of registration fails to do so, he shall be liable to a penalty of one lakh rupees for each day during which the failure continues or one crore rupees, whichever is less;

(c) to furnish any information, document, books, returns or report to the Authority, fails to furnish the same within the time specified by the Authority, he shall be liable to a penalty which may extend to one crore rupees or five times the amount of profits made or losses avoided, whichever is higher;

(d) to maintain books of account or records, fails to maintain the same, he shall be liable to a penalty of one lakh rupees for each day during which the failure continues or five times the amount of profits made or losses avoided, whichever is higher.

(2) If any person, who is required under this Act or any rules or regulations made thereunder, to enter into an agreement with his client, fails to enter into such agreement, he shall be liable to a penalty of one lakh rupees for each day during which the failure continues or five times the amount of profits made or losses avoided, whichever is higher.

(3) If any intermediary registered with the Authority, after having been called upon by the Authority, in writing, to redress the grievances of subscribers, fails to redress such grievances within the time stipulated by the Authority, he shall be liable to a penalty of not more than one crore rupees or five times the amount of profits made or losses avoided, whichever is higher.

(4) If any person, who is registered under this Act as an intermediary, fails to segregate moneys of the client or clients or uses the moneys of a client or clients for self or for any other client, he shall be liable to a penalty not exceeding one crore rupees or five times the amount of profits made or losses avoided, whichever is higher.

(5) Whoever fails to comply with any provision of this Act, the rules or the regulations made or the directions issued by the Authority under the provisions of this Act for which no separate penalty has been provided, he shall be liable to a penalty which may extend to one crore rupees or five times the amount of profits made or losses avoided, whichever is higher.

Crediting sums realised by way of penalties to Subscriber Education and Protection Fund.

29. All sums realised by way of penalties under this Act shall be credited to the Subscriber Education and Protection Fund established under sub-section (1) of section 41.

Power to adjudicate.

30. (1) For the purposes of adjudging under section 28, the Authority shall appoint any of its officers not below the rank specified by regulations to be an adjudicating officer for holding an inquiry as may be determined by regulations, after giving the person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding an inquiry, the adjudicating officer shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of section 28, he may recommend such penalty as he thinks fit in accordance with the provisions of that section, to the member in charge of investigation and surveillance.

(3) The penalty shall be imposed by a member other than the member in charge of investigation and surveillance:

Provided that while adjudging the quantum of penalty under section 28, the member shall have due regard to the following factors, namely:—

- (a) amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;
- (b) amount of loss caused to a subscriber or group of subscribers; and
- (c) the repetitive nature of the default.

Attachment of assets and supersession of management of intermediary.

31. (1) Any person aggrieved may apply to the Authority for an interim measure of protection in respect of any of the following matters, namely:—

- (a) the retention, preservation, interim custody or sale of any asset or property which is regulated by the provisions of this Act;
- (b) securing any pension fund, moneys and other assets and properties owned by or under the control of the pension fund;

(c) interim injunction or appointment of an administrator; and

(d) such other interim measures as may appear to the Authority to be just and necessary,

and the Authority shall have power to make such orders including an order for attachment of assets of the pension fund as it deems fit in this regard.

(2) Where, on a complaint received by the Authority or *suo motu*, the Authority, after conducting an inquiry, comes to a conclusion that the governing board or board of directors, by whatever name called, or the persons in control of any intermediary to the extent regulated under this Act are indulging in any activity which is in contravention of the provisions of this Act or regulations, it may supersede the governing board or board of directors or management of the intermediary in accordance with the provisions of the regulations.

(3) In case the governing board or board of directors or management of an intermediary is superseded under sub-section (2), the Authority may appoint an Administrator to manage the affairs of the intermediary in accordance with the provisions contained in the regulations.

32. (1) Without prejudice to any award of penalty by the member under this Act, if any person contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules or regulations made thereunder, he shall be punishable with imprisonment for a term which may extend to ten years, or with fine, which may extend to twenty-five crore rupees or with both.

Offences.

(2) If any person fails to pay the penalty imposed by the member or fails to comply with any of the directions or orders issued by the member, he shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to ten years, or with fine, which may extend to twenty-five crore rupees, or with both.

33. (1) The Central Government may, on the recommendation by the Authority, if satisfied, that any person, who is alleged to have violated any of the provisions of this Act or the rules or the regulations made thereunder, has made a full and true disclosure in respect of alleged violation, grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, or the rules or the regulations made thereunder and also from the imposition of any penalty under this Act with respect to the alleged violation:

Power to grant immunity.

Provided that no such immunity shall be granted by the Central Government in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of application for grant of such immunity:

Provided further that the recommendation of the Authority under this sub-section shall not be binding upon the Central Government.

(2) An immunity granted to a person under sub-section (1) may, at any time, be withdrawn by the Central Government, if it is satisfied that such person had, in the course of the proceedings, not complied with the condition on which the immunity was granted or had given false evidence, and thereupon such person may be tried for the offence with respect to which the immunity was granted or for any other offence of which he appears to have been guilty in connection with the contravention and shall also become liable to the imposition of any penalty under this Act to which such person would have been liable, had no such immunity been granted.

34. Notwithstanding anything contained in—

(i) the Wealth-tax Act, 1957;

(ii) the Income-tax Act, 1961; or

(iii) any other enactment for the time being in force relating to tax on wealth, income, profits or gains,

Exemption from tax on wealth, income, profits and gains.

27 of 1957.

43 of 1961.

the Authority shall not be liable to pay wealth-tax, income-tax or any other tax in respect of its wealth, income, profits or gains derived.

Cognizance of offences by court.

35. (1) No court shall take cognizance of any offence punishable under this Act or any rules or regulations made thereunder, save on a complaint made by the Authority.

(2) No court inferior to that of a Court of Session shall try any offence punishable under this Act.

Appeal to Securities Appellate Tribunal.

36. (1) Any person aggrieved by an order made by the Authority or by an adjudicating officer under this Act may prefer an appeal before the Securities Appellate Tribunal which shall have jurisdiction over the matter.

(2) Every appeal under sub-section (1) shall be filed within a period of forty-five days from the date of receipt of the order appealed against and it shall be in such form and manner and shall be accompanied by such fee as may be prescribed:

Provided that the Securities Appellate Tribunal may entertain an appeal after the expiry of the said period, if it is satisfied that there was sufficient cause for not preferring the appeal within that period.

(3) On receipt of an appeal under sub-section (1), the Securities Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the order appealed against.

(4) The Securities Appellate Tribunal shall send a copy of every order made by it to the Authority, the parties to the appeal and to the adjudicating officers concerned.

(5) The appeal filed before the Securities Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal finally within six months from the date on which the appeal is presented to it.

(6) Without prejudice to the provisions of sections 15T and 15U of the Securities and Exchange Board of India Act, 1992, the Securities Appellate Tribunal shall deal with an appeal under this section in accordance with such procedure as may be prescribed. 15 of 1992.

Civil Court not to have jurisdiction.

37. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an adjudicating officer appointed under this Act or a Securities Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Appeal to Supreme Court.

38. Any person aggrieved by any decision or order of the Securities Appellate Tribunal under this Act may file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Securities Appellate Tribunal to him on any question of law arising out of such order:

Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

CHAPTER IX

FINANCE, ACCOUNT AND ADUIT

Grants by Central Government.

39. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as that Government may think fit for being utilised for the purposes of this Act.

Constitution of Pension Regulatory and Development Fund.

40. (1) There shall be constituted a fund to be called the Pension Regulatory and Development Fund and there shall be credited thereto—

(a) all Government grants, fees and charges received by the Authority;

(b) all sums received by the Authority from such other source as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the Chairperson and other members and officers and other employees of the Authority;

(b) other expenses of the Authority in connection with the discharge of its functions and for the purposes of this Act.

41. (1) The Authority shall establish a fund to be called the Subscriber Education and Protection Fund.

Constitution of Subscriber Education and Protection Fund.

(2) There shall be credited to the Subscriber Education and Protection Fund the following amounts, namely:—

(a) grants and donations given to the Subscriber Education and Protection Fund by the Central Government, State Governments, companies or any other institutions for the purposes of the Subscriber Education and Protection Fund;

(b) the interest or other income received out of the investments made from the Subscriber Education and Protection Fund;

(c) the sums realised by way of penalties by the Authority under section 28.

(3) The Subscriber Education and Protection Fund shall be administered and utilised by the Authority for protection of the interests of subscribers in accordance with regulations made for the purpose.

42. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts and audit.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit-report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER X

MISCELLANEOUS

43. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give, in writing to it, from time to time.

Power of Central Government to issue directions.

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government, whether a question is one of policy or not, shall be final.

Power of
Central
Government
to supersede
Authority.

44. (1) If at any time the Central Government is of the opinion that—

(a) on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) the Authority has persistently defaulted in complying with any direction issued by the Central Government that the Central Government is entitled to issue under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Authority or the administration of the Authority has deteriorated; or

(c) circumstances exist which render it necessary in the public interest so to do, the Central Government may, by notification and for reasons to be specified therein, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations against the proposed supersession and shall consider the representations, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) the Chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (3), be exercised and discharged by the Central Government; and

(c) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Authority.

(4) The Central Government shall, as soon as may be, cause a copy of the notification issued under sub-section (1) and a full report of any action taken by it, to be laid before each House of Parliament.

Establishment
of Pension
Advisory
Committee.

45. (1) The Authority may, by notification, establish with effect from such date as it may specify in the notification, a Committee to be known as the Pension Advisory Committee.

(2) The Pension Advisory Committee shall consist of not more than twenty-five members, excluding *ex officio* members, to represent the interests of employees' associations, subscribers, commerce and industry, intermediaries, and organisations engaged in pension research.

(3) The Chairperson and the members of the Authority shall be the *ex officio* Chairperson and *ex officio* members of the Pension Advisory Committee.

(4) The objects of the Pension Advisory Committee shall be to advise the Authority on matters relating to the making of the regulations under section 52.

(5) Without prejudice to the provisions of sub-section (4), the Pension Advisory Committee may advise the Authority on such matters as may be referred to it by the Authority and also on such matters as the Committee may deem fit.

Furnishing of
returns, etc.,
to Central
Government.

46. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed, or as the Central Government may direct to furnish such returns, statements and other particulars in regard to any proposed or existing programme for the promotion and development of the pension industry as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Authority shall, within nine months after the close of each financial year, submit to the Central Government a report giving a true and full account of its activities including the activities for promotion and development of schemes of pension funds regulated under this Act during the previous financial year.

(3) Copies of the reports received under sub-section (2) shall be laid, as soon as may be, after they are received, before each House of Parliament.

45 of 1860.

47. The Chairperson and other members and officers and other employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

Members, officers and employees of Authority to be public servants.

48. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or any officer of Central Government or any member, officer or other employees of the Authority for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Protection of action taken in good faith.

49. (1) The Authority may, by general or special order in writing, delegate to any member, officer of the Authority or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 52) as it may deem necessary.

Delegation of powers.

(2) The Authority may, by a general or special order in writing, also form committees of the members and delegate to them the powers and functions of the Authority as may be specified by the regulations.

50. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

51. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salary and allowances payable to and the other conditions of service of the Chairperson and whole-time members under sub-section (3) of section 5;

(b) the allowances payable to part-time members under sub-section (4) of section 5;

(c) the additional functions which may be performed by the Authority under clause (p) of sub-section (2) of section 14;

(d) any other matter in respect of which the Authority may exercise the powers of a civil court under clause (v) of sub-section (3) of section 14;

(e) the procedure to be followed by the authorised officer under sub-section (10) of section 17;

(f) the form and manner in which an appeal may be filed before the Securities Appellate Tribunal and the fee which shall accompany such appeal, under sub-section (2) of section 36;

(g) the procedure to be followed by the Securities Appellate Tribunal in dealing with an appeal, under sub-section (6) of section 36;

(h) the form in which annual statement of accounts shall be maintained by the Authority under sub-section (1) of section 42;

(i) the time within which and the form and manner in which returns and reports are to be made by the Authority to the Central Government under sub-section (1) of section 46;

(j) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

Power to
make
regulations.

52. (1) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the time and places of meetings of the Authority and the procedure to be followed at such meetings (including the quorum at such meetings) under sub-section (1) of section 9;

(b) the terms and other conditions of service of the officers and other employees of the Authority under sub-section (2) of section 11;

(c) the regulations to be made by the Authority in respect of pension schemes referred to in clause (b) of sub-section (1) of section 12 and the time within which such schemes should conform to the regulations, made under sub-section (2) of that section;

(d) the establishing of mechanisms for redressing grievances of subscribers under clause (f) of sub-section (2) of section 14;

(e) the form and manner in which books of account shall be maintained and statement of accounts shall be rendered by intermediaries under clause (n) of sub-section (2) of section 14;

(f) amendment to the National Pension System referred to in sub-section (1) of section 20;

(g) the conditions of its purpose, frequency and limits for withdrawals from individual pension account referred to in clause (b) of sub-section (2) of section 20;

(h) the conditions subject to which the subscriber shall exit from the National Pension System referred to in clause (h) of sub-section (2) of section 20;

(i) the conditions subject to which the subscriber shall purchase an annuity referred to in clause (i) of sub-section (2) of section 20;

(j) the duties and functions of central recordkeeping agency under sub-section (2) of section 21;

(k) the determination of compensation of fair value of the regulated assets payable to central recordkeeping agency under proviso to sub-section (3) of section 21;

(l) the manner of receiving contributions and instructions and transmitting them to the Trustee Bank or central recordkeeping agency, as the case may be, and

paying out the benefits to the subscribers, under sub-section (1), and the regulations governing functioning of points of presence under sub-section (2) of section 22;

(m) the manner in which a pension fund may receive contributions, accumulate them and make payments to the subscriber under sub-section (1), the number of pension funds under sub-section (2), the functioning of the pension fund under sub-section (3), and the manner of managing the schemes by the pension fund under sub-section (4) of section 23;

(n) the form and manner in which an application for grant of certificate of registration shall be made and the fee which shall accompany such application under sub-section (2) of section 27;

(o) the conditions subject to which a certificate of registration may be granted to an intermediary under sub-section (3) of section 27;

(p) the procedure and manner of suspension or cancellation of certificate of registration of intermediaries under sub-section (4) of section 27;

(q) the procedure for holding inquiry by an adjudicating officer under sub-section (1) of section 30;

(r) the supersession of the governing board or board of directors of the intermediary under sub-section (2) of section 31;

(s) the management of affairs of the intermediary by an Administrator under sub-section (3) of section 31;

(t) the manner of administering and utilising the Subscriber Education and Protection Fund under sub-section (3) of section 41;

(u) the delegation of powers and functions of the Authority to committees under sub-section (2) of section 49;

(v) establishment, duties and functioning of the National Pension System Trust;

(w) any other matter which is required to be or may be specified by regulations or in respect of which provision is to be or may be made by regulations.

53. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and regulations to be laid before Parliament.

54. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

55. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Application of other laws not barred.

Savings.

56. Anything done or any action taken by the Interim Pension Fund Regulatory and Development Authority and Central Government under the Resolutions of the Government of India in the Ministry of Finance number F. No. 5/7/2003-ECB&PR, dated the 10th October, 2003 and F.No.1(6)2007-PR, dated the 14th November, 2008 and notification number F. No. 5/7/2003-ECB & PR, dated the 22nd December, 2003, shall be deemed to have been done or taken under the corresponding provisions of this Act.

THE PROHIBITION OF EMPLOYMENT AS MANUAL SCAVENGERS AND THEIR REHABILITATION ACT, 2013

ARRANGEMENT OF SECTIONS

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Bhopal, the 4th April 2014

No. 2199-82-XXI-A(Dr.)—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary, Part-II, Section I, dated the 19th September, 2013 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 18th September, 2013.

By order and in the name of the Governor of Madhya Pradesh,
RAJESH YADAV, Addl. Secy.

THE PROHIBITION OF EMPLOYMENT AS MANUAL
SCAVENGERS AND THEIR REHABILITATION ACT, 2013
(Act No. 25 of 2013)

AN ACT

to provide for the prohibition of employment as manual scavengers, rehabilitation of manual scavengers and their families, and for matters connected therewith or incidental thereto.

WHEREAS promoting among the citizens fraternity assuring the dignity of the individual is enshrined as one of the goals in the Preamble to the Constitution;

AND WHEREAS the right to live with dignity is also implicit in the Fundamental Rights guaranteed in Part III of the Constitution;

AND WHEREAS article 46 of the Constitution, *inter alia*, provides that the State shall protect the weaker sections, and, particularly, the Scheduled Castes and the Scheduled Tribes from social injustice and all forms of exploitation;

AND WHEREAS the dehumanising practice of manual scavenging, arising from the continuing existence of insanitary latrines and a highly iniquitous caste system, still persists in various parts of the country, and the existing laws have not proved adequate in eliminating the twin evils of insanitary latrines and manual scavenging;

AND WHEREAS it is necessary to correct the historical injustice and indignity suffered by the manual scavengers, and to rehabilitate them to a life of dignity.

Be it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that the date so notified shall not be earlier than sixty days after the date of publication of the notification in the Official Gazette.

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) “agency” means any agency, other than a local authority, which may undertake sanitation facilities in an area and includes a contractor or a firm or a company which engages in development and maintenance of real estate;

(b) “appropriate government”, in relation to Cantonment Boards, railway lands, and lands and buildings owned by the Central Government, a Central Public Sector Undertaking or an autonomous body wholly or substantially funded by the Central Government, means the Central Government and in all other cases, the State Government;

(c) “Chief Executive Officer”, in relation to a Municipality or Panchayat, means, its senior-most executive officer, by whatever name called;

(d) “hazardous cleaning” by an employee, in relation to a sewer or septic tank, means its manual cleaning by such employee without the employer fulfilling his obligations to provide protective gear and other cleaning devices and ensuring observance of safety precautions, as may be prescribed or provided in any other law, for the time being in force or rules made thereunder;

(e) “insanitary latrine” means a latrine which requires human excreta to be cleaned or otherwise handled manually, either *in situ*, or in an open drain or pit into which the excreta is discharged or flushed out, before the excreta fully decomposes in such manner as may be prescribed:

Provided that a water flush latrine in a railway passenger coach, when cleaned by an employee with the help of such devices and using such protective gear, as the Central Government may notify in this behalf, shall not be deemed to be an insanitary latrine.

(f) “local authority” means,—

(i) a Municipality or a Panchayat, as defined in clause (e) and clause (f) of article 243P of the Constitution, which is responsible for sanitation in its area of jurisdiction;

(ii) a Cantonment Board constituted under section 10 of the Cantonments Act, 2006; and

(iii) a railway authority;

(g) “manual scavenger” means a person engaged or employed, at the commencement of this Act or at any time thereafter, by an individual or a local authority or an agency or a contractor, for manually cleaning, carrying, disposing of, or otherwise handling in any manner, human excreta in an insanitary latrine or in an open drain or pit into which the human excreta from the insanitary latrines is disposed of, or on a

railway track or in such other spaces or premises, as the Central Government or a State Government may notify, before the excreta fully decomposes in such manner as may be prescribed, and the expression "manual scavenging" shall be construed accordingly.

Explanation.—For the purpose of this clause,—

(a) "engaged or employed" means being engaged or employed on a regular or contract basis;

(b) a person engaged or employed to clean excreta with the help of such devices and using such protective gear, as the Central Government may notify in this behalf, shall not be deemed to be a 'manual scavenger';

(h) "National Commission for Safai Karmacharis" means the National Commission for Safai Karmacharis constituted under section 3 of the National Commission for Safai Karmacharis Act, 1993 and continued by Resolution of the Government of India in the Ministry of Social Justice and Empowerment *vide* No. 17015/18/2003-SCD-VI, dated 24th February, 2004 and as amended from time to time;

(i) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(j) "occupier", in relation to the premises where an insanitary latrine exists, or someone is employed as a manual scavenger, means the person who, for the time being, is in occupation of such premises;

(k) "owner", in relation to the premises where an insanitary latrine exists or someone is employed as a manual scavenger, means, the person who, for the time being has legal title to such premises;

(l) "prescribed" means prescribed by the rules made under this Act;

(m) "railway authority" means an authority administering railway land, as may be notified by the Central Government in this behalf;

(n) "railway land" shall have the meaning assigned to it in clause (324) of section 2 of the Railways Act, 1989;

(o) "sanitary latrine" means a latrine which is not an 'insanitary latrine';

(p) "septic tank" means a water-tight settling tank or chamber, normally located underground, which is used to receive and hold human excreta, allowing it to decompose through bacterial activity;

(q) "sewer" means an underground conduit or pipe for carrying off human excreta, besides other waste matter and drainage wastes;

(r) "State Government", in relation to a Union territory, means the Administrator thereof appointed under article 239 of the Constitution;

(s) "survey" means a survey of manual scavengers undertaken in pursuance of section 11 or section 14.

(2) Words and expressions used and not defined in this Act, but defined in the Cantonments Act, 2006, shall have the same meanings respectively assigned to them in that Act.

(3) The reference to a Municipality under Chapters IV to VIII of this Act shall include a reference to, as the case may be, the Cantonment Board or the railway authority, in respect of areas included within the jurisdiction of the Cantonment Board and the railway land, respectively.

Act to have
overriding
effect.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 or in any other law, or in any instrument having effect by virtue of any other law.

46 of 1993.

CHAPTER II

IDENTIFICATION OF INSANITARY LATRINES

Local
authorities to
survey
insanitary
latrines and
provide
sanitary
community
latrines.

4. (1) Every local authority shall,—

(a) carry out a survey of insanitary latrines existing within its jurisdiction, and publish a list of such insanitary latrines, in such manner as may be prescribed, within a period of two months from the date of commencement of this Act;

(b) give a notice to the occupier, within fifteen days from the date of publication of the list under clause (a), to either demolish the insanitary latrine or convert it into a sanitary latrine, within a period of six months from the date of commencement of this Act;

Provided that the local authority may for sufficient reasons to be recorded in writing extend the said period not exceeding three months;

(c) construct, within a period not exceeding nine months from the date of commencement of this Act, such number of sanitary community latrines as it considers necessary, in the areas where insanitary latrines have been found.

(2) Without prejudice to the provisions contained in sub-section (1), Municipalities, Cantonment Boards and railway authorities shall also construct adequate number of sanitary community latrines, within such period not exceeding three years from the date of commencement of this Act, as the appropriate Government may, by notification, specify, so as to eliminate the practice of open defecation in their jurisdiction.

(3) It shall be the responsibility of local authorities to construct community sanitary latrines as specified in sub-sections (1) and (2), and also to make arrangements for their hygienic upkeep at all times.

Explanation.—For the purposes of this section, “community” in relation to railway authorities means passengers, staff and other authorised users of railways.

CHAPTER III

PROHIBITION OF INSANITARY LATRINES AND EMPLOYMENT AND ENGAGEMENT AS, MANUAL SCAVENGER

Prohibition of
insanitary
latrines and
employment
and engage-
ment of
manual
scavenger.

5. (1) Notwithstanding anything inconsistent therewith contained in the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, no person, local authority or any agency shall, after the date of commencement of this Act,—

46 of 1993.

(a) construct an insanitary latrine; or

(b) engage or employ, either directly or indirectly, a manual scavenger; and every person so engaged or employed shall stand discharged immediately from any obligation, express or implied, to do manual scavenging.

(2) Every insanitary latrine existing on the date of commencement of this Act, shall either be demolished or be converted into a sanitary latrine, by the occupier at his own cost, before the expiry of the period so specified in clause (b) of sub-section (1) of section 4:

Provided that where there are several occupiers in relation to an insanitary latrine, the liability to demolish or convert it shall lie with,—

(a) the owner of the premises, in case one of the occupiers happens to be the owner; and

(b) all the occupiers, jointly and severally, in all other cases:

Provided that the State Government may give assistance for conversion of insanitary latrines into sanitary latrines to occupiers from such categories of persons and on such scale, as it may, by notification, specify:

Provided further that non-receipt of State assistance shall not be a valid ground to maintain or use an insanitary latrine, beyond the said period of nine months.

(3) If any occupier fails to demolish an insanitary latrine or convert it into a sanitary latrine within the period specified in sub-section (2), the local authority having jurisdiction over the area in which such insanitary latrine is situated, shall, after giving notice of not less than twenty one days to the occupier, either convert such latrine into a sanitary latrine, or demolish such insanitary latrine, and shall be entitled to recover the cost of such conversion or, as the case may be, of demolition, from such occupier in such manner as may be prescribed.

6. (1) Any contract, agreement or other instrument entered into or executed before the date of commencement of this Act, engaging or employing a person for the purpose of manual scavenging shall, on the date of commencement of this Act, be terminated and such contract, agreement or other instrument shall be void and inoperative and no compensation shall be payable therefor.

Contract, agreement, etc., to be void.

(2) Notwithstanding anything contained in sub-section (1), no person employed or engaged as a manual scavenger on a full-time basis shall be retrenched by his employer, but shall be retained, subject to his willingness, in employment on at least the same emoluments, and shall be assigned work other than manual scavenging.

7. No person, local authority or any agency shall, from such date as the State Government may notify, which shall not be later than one year from the date of commencement of this Act, engage or employ, either directly or indirectly, any person for hazardous cleaning of a sewer or a septic tank.

Prohibition of persons from engagement or employment for hazardous cleaning of sewers and septic tanks.

8. Whoever contravenes the provisions of section 5 or section 6 shall for the first contravention be punishable with imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both; and for any subsequent contravention with imprisonment which may extend to two years or with fine which may extend to one lakh rupees, or with both.

Penalty for contravention of section 5 or section 6.

9. Whoever contravenes the provisions of section 7 shall for the first contravention be punishable with imprisonment for a term which may extend to two years or with fine which may extend to two lakh rupees or with both, and for any subsequent contravention with imprisonment which may extend to five years or with fine which may extend to five lakh rupees, or with both.

Penalty for contravention of section 7.

10. No court shall take cognizance of any offence punishable under this Act except upon a complaint thereof is made by a person in this behalf within three months from the date of the occurrence of the alleged commission of the offence.

Limitation of prosecution.

CHAPTER IV

IDENTIFICATION OF MANUAL SCAVENGERS IN URBAN AND RURAL AREAS AND THEIR REHABILITATION

11. (1) If any Municipality has reason to believe that some persons are engaged or employed in manual scavenging within its jurisdiction, the Chief Executive Officer of such Municipality shall cause a survey to be undertaken to identify such persons.

Survey of manual scavengers in urban areas by Municipalities.

(2) The content and methodology of the survey referred to in sub-section (1) shall be such as may be prescribed, and it shall be completed within a period of two months from its commencement in the case of Municipal Corporations, and within a period of one month in the case of other Municipalities.

(3) The Chief Executive Officer of the Municipality, in whose jurisdiction the survey is undertaken, shall be responsible for accurate and timely completion of the survey.

(4) After completion of the survey, the Chief Executive Officer shall cause to be drawn up a provisional list of persons found to be working as manual scavengers within the jurisdiction of his Municipality and fulfilling the eligibility conditions as may be prescribed, shall cause such provisional list to be published for general information in such manner, as may be prescribed, and shall invite objections to the list from the general public.

(5) Any person having any objection, either to the inclusion or exclusion of any name in the provisional list published in pursuance of sub-section (4), shall, within a period of fifteen days from such publication, file an objection, in such form as the Municipality may notify, to the Chief Executive Officer.

(6) All objections received in pursuance of sub-section (5), shall be enquired into, and thereafter a final list of persons found to be working as manual scavengers within the local limits of the municipality, shall be published by it in such manner, as may be prescribed.

(7) As soon as the final list of manual scavengers, referred to in sub-section (6) is published, the persons included in the said list shall, subject to the provisions of sub-section (2) of section 6, stand discharged from any obligation to work as manual scavengers.

Application
by an urban
manual
scavenger for
identification.

12. (1) Any person working as a manual scavenger in an urban area, may, either during the survey undertaken by the Municipality in pursuance of section 11, within whose jurisdiction he works, or at any time thereafter, apply, in such manner, as may be prescribed, to the Chief Executive Officer of the Municipality, or to any other officer authorised by him in this behalf, for being identified as a manual scavenger.

(2) On receipt of an application under sub-section (1), the Chief Executive Officer shall cause it to be enquired into, either as part of the survey undertaken under section 11, or, when no such survey is in progress, within fifteen days of receipt of such application, to ascertain whether the applicant is a manual scavenger.

(3) If an application is received under sub-section (1) when a survey under section 11 is not in progress, and is found to be true after enquiry in accordance with sub-section (2), action shall be taken to add the name of such a person to the final list published under sub-section (6) of section 11, and the consequences mentioned in sub-section (7) thereof shall follow.

Rehabilita-
tion of
persons
identified as
manual
scavengers
by a Muni-
cipality.

13. (1) Any person included in the final list of manual scavengers published in pursuance of sub-section (6) of section 11 or added thereto in pursuance of sub-section (3) of section 12, shall be rehabilitated in the following manner, namely:—

(a) he shall be given, within one month,—

(i) a photo identity card, containing, *inter alia*, details of all members of his family dependent on him, and

(ii) such initial, one time, cash assistance, as may be prescribed;

(b) his children shall be entitled to scholarship as per the relevant scheme of the Central Government or the State Government or the local authorities, as the case may be;

(c) he shall be allotted a residential plot and financial assistance for house construction, or a ready-built house, with financial assistance, subject to eligibility and willingness of the manual scavenger, and the provisions of the relevant scheme of the Central Government or the State Government or the concerned local authority;

(d) he, or at least one adult member of his family, shall be given, subject to eligibility and willingness, training in a livelihood skill, and shall be paid a monthly stipend of not less than three thousand rupees, during the period of such training;

(e) he, or at least one adult member of his family, shall be given, subject to

eligibility and willingness, subsidy and concessional loan for taking up an alternative occupation on a sustainable basis, in such manner as may be stipulated in the relevant scheme of the Central Government or the State Government or the concerned local authority;

(f) he shall be provided such other legal and programmatic assistance, as the Central Government or State Government may notify in this behalf.

(2) The District Magistrate of the district concerned shall be responsible for rehabilitation of each manual scavenger in accordance with the provisions of sub-section (1) and the State Government or the District Magistrate concerned may, in addition, assign responsibilities in his behalf to officers subordinate to the District Magistrate and to officers of the concerned Municipality.

14. If any Panchayat has reason to believe that some persons are engaged in manual scavenging within its jurisdiction, the Chief Executive Officer of such Panchayat shall cause a survey of such manual scavengers to be undertaken, *mutatis mutandis*, in accordance with the provisions of section 11 and section 12, to identify such person.

Survey of manual scavengers in rural areas by Panchayats.

15. (1) Any person working as a manual scavenger, in a rural area, may, either during the survey undertaken by the Panchayat within whose jurisdiction he works, in pursuance of section 14 or at any time thereafter, apply, in such manner, as may be prescribed, to the Chief Executive Officer of the concerned Panchayat, or to any other officer authorised by him in this behalf, for being identified as a manual scavenger.

Application by a rural manual scavenger for identification.

(2) On receipt of an application under sub-section (1), the Chief Executive Officer shall cause it to be enquired into, either as part of the survey undertaken under section 14 or when no such survey is in progress, within fifteen days of receipt of such application, so as to ascertain whether the applicant is a manual scavenger.

16. Any person included in the final list of manual scavengers, published in pursuance of section 14 or added thereto in pursuance of sub-section (2) of section 15 shall be rehabilitated, *mutatis mutandis*, in the manner laid down for urban manual scavengers in section 13.

Rehabilitation of persons identified as manual scavengers by a Panchayat.

CHAPTER V

IMPLEMENTING AUTHORITIES

17. Notwithstanding anything contained in any other law for the time being in force, it shall be the responsibility of every local authority to ensure, through awareness campaign or in such other manner that after the expiry of a period of nine months, from the date of commencement of this Act,—

Responsibility of local authorities to ensure elimination of insanitary latrines.

(i) no insanitary latrine is constructed, maintained or used within its jurisdiction; and

(ii) in case of contravention of clause (i), action is taken against the occupier under sub-section (3) of section 5.

18. The appropriate Government may confer such powers and impose such duties on local authority and District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out, and a local authority and the District Magistrate may, specify the subordinate officers, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed, and the local limits within which such powers or duties shall be carried out by the officer or officers so specified.

Authorities who may be specified for implementing provisions of this Act.

19. The District Magistrate and the authority authorised under section 18 or any other subordinate officers specified by them under that section shall ensure that, after the expiry of such period as specified for the purpose of this Act,—

Duty of District Magistrate and authorised officers,

(a) no person is engaged or employed as manual scavenger within their jurisdiction;

(b) no one constructs, maintains, uses or makes available for use, an insanitary latrine;

(c) manual scavengers identified under this Act are rehabilitated in accordance with section 13, or as the case may be, section 16;

(d) persons contravening the provisions of section 5 or section 6 or section 7 are investigated and prosecuted under the provisions of this Act; and

(e) all provisions of this Act applicable within his jurisdiction are duly complied with.

Appointment
of inspectors
and their
powers.

20. (1) The appropriate Government may, by notification, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Subject to any rules made in this behalf, an inspector may, within the local limits of his jurisdiction, enter, at all reasonable times, with such assistance as he considers necessary, any premises or place for the purpose of,—

(a) examining and testing any latrine, open drain or pit or for conducting an inspection of any premises or place, where he has reason to believe that an offence under this Act has been or is being or is about to be committed, and to prevent employment of any person as manual scavenger;

(b) examine any person whom he finds in such premises or place and who, he has reasonable cause to believe, is employed as a manual scavenger therein, or is otherwise in a position to furnish information about compliance or non-compliance with the provisions of this Act and the rules made thereunder;

(c) require any person whom he finds on such premises, to give information which is in his power to give, with respect to the names and addresses of persons employed on such premises as manual scavenger and of the persons or agency or contractor employing or engaging them;

(d) seize or take copies of such registers, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by the principal employer or agency; and

(e) exercise such other powers as may be prescribed.

(3) Any person required to produce any document or thing or to give any information required by an inspector under sub-section (2) shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code.

45 of 1860.

(4) The provisions of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to any such search or seizure under sub-section (2) as they apply to such search or seizure made under the authority of a warrant issued under section 94 of the said Code.

2 of 1974.

CHAPTER VI

PROCEDURE FOR TRIAL

Offences to
be tried by
Executive
Magistrate.

21. (1) The State Government may confer, on an Executive Magistrate, the powers of a Judicial Magistrate of the first class for the trial of offences under this Act; and, on such conferment of powers, the Executive Magistrate, on whom the powers are so conferred, shall be deemed, for the purposes of the Code of Criminal Procedure, 1973, to be a Judicial Magistrate of the first class.

2 of 1974.

(2) An offence under this Act may be tried summarily.

Offence to be
cognizable
and non-
bailable.

22. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be cognizable and non-bailable.

2 of 1974.

23. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Offences by companies.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm.

CHAPTER VII

VIGILANCE COMMITTEES

24. (1) Every State Government shall, by notification, constitute a Vigilance Committee for each district and each Sub-Division.

Vigilance Committees.

(2) Each Vigilance Committee constituted for a district shall consist of the following members, namely:—

(a) the District Magistrate—Chairperson, *ex officio*;

(b) all members of the State Legislature belonging to the Scheduled Castes elected from the district—members;

Provided that if a district has no member of the State Legislature belonging to the Scheduled Castes, the State Government may nominate such number of other members of the State Legislature from the district, not exceeding two, as it may deem appropriate.

(c) the district Superintendent of Police— member, *ex officio*;

(d) the Chief Executive Officer of,—

(i) the Panchayat at the district level—member, *ex officio*;

(ii) the Municipality of the district headquarters—member, *ex officio*;

(iii) any other Municipal Corporation constituted in the district—member, *ex officio*;

(iv) Cantonment Board, if any, situated in the district—member, *ex officio*;

(e) one representative be nominated by the railway authority located in the district;

(f) not more than four social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the district, to be nominated by the District Magistrate, two of whom shall be women;

(g) one person to represent the financial and credit institutions in the district, to be nominated by the District Magistrate;

(h) the district-level officer in-charge of the Scheduled Castes Welfare—Member-Secretary, *ex officio*;

(i) district-level officers of Departments and agencies who, in the opinion of the District Magistrate, subject to general orders, if any, of the State Government, have a significant role to play in the implementation of this Act.

(3) Each Vigilance Committee, constituted for a Sub-Division, shall consist of the following members, namely:—

(a) the Sub-Divisional Magistrate—Chairperson, *ex officio*;

(b) the Chairpersons and the Chief Executive Officers of Panchayats at intermediate level of the Sub-Division, and where Panchayats at intermediate level, do not exist, Chairpersons from two Panchayats at Village level to be nominated by the Sub-Divisional Magistrate—member, *ex officio*;

(c) the Sub-Divisional Officer of Police—member, *ex officio*;

(d) Chief Executive Officer of—

(i) the Municipality of the Sub-Divisional headquarters—member, *ex officio*; and

(ii) Cantonment Board, if any, situated in the Sub-Division—member, *ex officio*;

(e) one representative to be nominated by the railway authority located in the Sub-Division—member, *ex officio*;

(f) two social workers belonging to the organisation working for the prohibition of manual scavenging and rehabilitation of the manual scavengers, or representing the scavenger community resident in the Sub-Division, to be nominated by the District Magistrate, one of whom shall be a woman;

(g) one person to represent the financial and credit institutions in the Sub-Division, to be nominated by the Sub-Divisional Magistrate;

(h) the Sub-Divisional level officer in-charge of Scheduled Castes welfare—Member-Secretary, *ex officio*;

(i) Sub-Divisional level officers of Department and agencies who in the opinion of the Sub-Divisional Magistrate, subject to any general orders of the State Government or the District Magistrate, have a significant role to play in the implementation of this Act—member, *ex officio*.

(4) Each Vigilance Committee constituted at district and Sub-Divisional level shall meet at least once in every three months.

(5) No proceeding of a Vigilance Committees shall be invalid merely by reason of any defect in its constitution.

Functions of
Vigilance
Committee.

25. The functions of Vigilance Committee shall be—

(a) to advise the District Magistrate or, as the case may be, the Sub-Divisional Magistrate, on the action which needs to be taken, to ensure that the provisions of this Act or of any rule made thereunder are properly implemented;

(b) to oversee the economic and social rehabilitation of manual scavengers;

(c) to co-ordinate the functions of all concerned agencies with a view to channelise adequate credit for the rehabilitation of manual scavengers;

(d) to monitor the registration of offences under this Act and their investigation and prosecution.

26. (1) Every State Government shall, by notification, constitute a State Monitoring Committee, consisting of the following members, namely:—

State
Monitoring
Committee.

(a) the Chief Minister of State or a Minister nominated by him—Chairperson, *ex officio*;

(b) the Minister-in-charge of the Scheduled Castes Welfare, and such other Department, as the State Government may notify;

(c) Chairperson of the State Commissions for Safai Karamcharis, and Scheduled Castes, if any—member, *ex officio*;

(d) representatives of the National Commission for Scheduled Castes, and Safai Karamcharis—member, *ex officio*;

(e) not less than two members of the State Legislature belonging to the Scheduled Castes, nominated by the State Government;

Provided that if any State Legislature has no member belonging to the Scheduled Castes, the State Government may nominate the members belonging to the Scheduled Tribes;

(f) the Director-General of Police—member, *ex officio*;

(g) Secretaries to the State Government in the Departments of Home, Panchayati Raj, Urban Local Bodies, and such other Departments, as the State Government may notify;

(h) Chief Executive Officer of at least one Municipal Corporation, Panchayat at the district-level, Cantonment Board and railway authority as the State Government may notify;

(i) not more than four social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the State, to be nominated by the State Government, two of whom shall be women;

(j) State-level head of the convener Bank of the State Level Bankers' Committee—member, *ex officio*;

(k) Secretary of the Department of the State Government dealing with development of the Scheduled Castes—Member-Secretary, *ex officio*;

(l) such other representative of Departments of the State Government and such other agencies which, in the opinion of the State Government, are concerned with the implementation of this Act.

(2) The State Monitoring Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

27. The functions of the State Monitoring Committee shall be—

Functions of
the State
Monitoring
Committee.

(a) to monitor and advise the State Government and local authorities for effective implementation of this Act;

(b) to co-ordinate the functions of all concerned agencies;

(c) to look into any other matter incidental thereto or connected therewith for implementation of this Act.

28. Every State or Union territory Government and Union territory administration shall send such periodic reports to the Central Government about progress of implementation of this Act, as the Central Government may require.

Duty of
States or
Union
territories to
send periodic
reports to the
Central
Government.

29. (1) The Central Government shall, by notification, constitute a Central Monitoring Committee in accordance with the provisions of this section.

Central
Monitoring
Committee.

(2) The Central Monitoring Committee shall consist of the following members, namely:—

(a) The Union Minister for Social Justice and Empowerment—Chairperson, *ex officio*;

(b) Chairperson of the National Commission for Scheduled Castes—member, *ex officio*;

(c) Minister of State in the Ministry of Social Justice and Empowerment—member, *ex officio*;

(d) Chairperson, National Commission for Safai Karamcharis—member, *ex officio*;

(e) the Member of the Planning Commission dealing with development of the Scheduled Castes—member, *ex officio*;

(f) three elected members of Parliament belonging to Scheduled Castes, two from the Lok Sabha and one from the Rajya Sabha;

(g) Secretaries of the Ministries of,—

(i) Social Justice and Empowerment, Department of Social Justice and Empowerment;

(ii) Urban Development;

(iii) Housing and Urban Poverty Alleviation;

(iv) Drinking Water and Sanitation;

(v) Panchayati Raj;

(vi) Finance, Department of Financial Services; and

(vii) Defence,

members, *ex officio*;

(h) Chairman, Railway Board—member, *ex officio*;

(i) Director-General, Defence Estates—member, *ex officio*;

(j) representatives of not less than six State Governments and one Union territory, as the Central Government may, notify;

(k) not more than six social workers belonging to organisation working for the prohibition of manual scavenging and rehabilitation of manual scavengers, or, representing the scavenger community, resident in the country, to be nominated by the Chairperson, two of whom shall be women;

(l) Joint Secretary, Department of Social Justice and Empowerment in the Ministry of Social Justice and Empowerment, looking after development of Scheduled Castes—Member-Secretary, *ex officio*;

(m) such other representatives of Central Ministries or Departments and agencies which, in the opinion of the Chairperson, are concerned with the implementation of this Act.

(3) The Central Monitoring Committee shall meet at least once in every six months.

30. The functions of the Central Monitoring Committee shall be,—

(a) to monitor and advise the Central Government and State Government for effective implementation of this Act and related laws and programmes;

(b) to co-ordinate the functions of all concerned agencies;

(c) to look into any other matter incidental to or connected with implementation of this Act.

31. (1) The National Commission for Safai Karamcharis shall perform the following functions, namely:—

Functions of National Commission for Safai Karamcharis.

(a) to monitor the implementation of this Act;

(b) to enquire into complaints regarding contravention of the provisions of this Act, and to convey its findings to the concerned authorities with recommendations requiring further action; and

(c) to advise the Central and the State Governments for effective implementation of the provisions of this Act.

(d) to take *suo motu* notice of matter relating to non-implementation of this Act.

(2) In the discharge of its functions under sub-section (1), the National Commission shall have the power to call for information with respect to any matter specified in that sub-section from any Government or local or other authority.

32. (1) The State Government may, by notification, designate a State Commission for Safai Karamcharis or a State Commission for the Scheduled Castes or such other statutory or other authority, as it deems fit, to perform, within the State, *mutatis mutandis*, the functions specified in sub-section (1) of section 31.

Power of State Government to designate an appropriate authority to monitor the implementation of this Act.

(2) An authority designated under sub-section (1) shall, within the State, have, *mutatis mutandis*, the powers of the National Commission for Safai Karamcharis as specified in sub-section (2) of section 31.

CHAPTER VIII

MISCELLANEOUS

33. (1) It shall be the duty of every local authority and other agency to use appropriate technological appliances for cleaning of sewers, septic tanks and other spaces within their control with a view to eliminating the need for the manual handling of excreta in the process of their cleaning.

Duty of local authorities and other agencies to use modern technology for cleaning of sewers, etc.

(2) It shall be the duty of the appropriate Government to promote, through financial assistance, incentives and otherwise, the use of modern technology, as mentioned in sub-section (1).

34. No suit, prosecution or other legal proceeding shall lie against an appropriate Government or any officer of the appropriate Government or any member of the Committee for anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

35. No civil court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any civil court in respect of anything, which is done or intended to be done, by or under this Act.

Jurisdiction of civil courts barred.

36. (1) The appropriate Government shall, by notification, make rules for carrying out the provisions of this Act, within a period not exceeding three months from the date of commencement of this Act.

Power of appropriate Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the obligation of an employer, under clause (d) of sub-section (1) of section 2;

(b) the manner in which the excreta fully decomposes under clauses (e) and (g) of sub-section (1) of section 2;

(c) the manner of carrying out survey of insanitary latrine and publishing list thereof under clause (a) of sub-section (1) of section 4;

(d) procedure of giving notice and recovering cost of demolition of an insanitary latrine under sub-section (3) of section 5;

(e) content and methodology of the survey under sub-section (2) of section 11;

(f) the eligibility conditions for identification of manual scavengers and publication of provisional list of persons found to be working as manual scavengers under sub-section (4) of section 11;

(g) publication of final list of persons found to be working as manual scavengers under sub-section (6) of section 11;

(h) manner of application to be made to the Chief Executive Officer of the municipality, or to an officer authorised by him in this behalf, under sub-section (1) of section 12 or, as the case may be, sub-section (1) of section 15;

(i) provision of initial, one time, cash assistance under sub-clause (ii) of clause (a) of sub-section (1) of section 13;

(j) such other powers of Inspectors under clause (e) of sub-section (2) of section 20; and

(k) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(4) Every rule made under this Act by the State Government shall, as soon as may be after it is made, be laid before each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

Power of
Central
Government
to make model
rules.

37. (1) Notwithstanding anything contained in section 36 of this Act:—

(a) the Central Government shall, by notification, publish model rules for the guidance and use of State Governments; and

(b) in case the State Government fails to notify the rules under section 36 of this Act within the period of three months specified therein, then the model rules as notified by the Central Government shall be deemed to have come into effect, *mutatis mutandis*, in such State, till such time as the State Government notifies its rules.

(2) The model rules made by the Central Government under this Act shall be laid, as soon as may be after they are made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses make any modification in the rule, the rule shall thereafter have effect only in such modified form; so, however, that any such modification shall be without prejudice to the validity of anything previously done under that rule.

Power to
remove
difficulties.

38. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made in relation to a State after the expiration of three years from the commencement of this Act in that State.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

39. (1) The appropriate Government may, by a general or special order published in the Official Gazette, for reasons to be recorded, and subject to such conditions as it may impose, exempt any area, category of buildings or class of persons from any provisions of this Act or from any specified requirement contained in this Act or any rule, order, notification, bye-laws or scheme made thereunder or dispense with the observance of any such requirement in a class or classes of cases, for a period not exceeding six months at a time.

Power to
exempt.

(2) Every general or special order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament or each House of State Legislature, where there are two Houses and where there is one House of State Legislature, before that House.

Bhopal, the 4th April 2014

No. 2199-82-XXI-A(Dr.)—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary, Part-II, Section I, dated the 23rd September, 2013 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 20th September, 2013.

By order and in the name of the Governor of Madhya Pradesh,
RAJESH YADAV, Addl. Secy.

THE WAKF (AMENDMENT) ACT, 2013
(Act No. 27 of 2013)

AN ACT

to amend the Wakf Act, 1995.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Wakf (Amendment) Act, 2013.

Short title and
commencement

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

43 of 1995.

2. In the long title to the Wakf Act, 1995 (hereinafter referred to as the principal Act), for the word "Wakfs", the word "Auqaf" shall be substituted.

Amendment
of long title.

3. In section 1 of the principal Act, in sub-section (1); for the word "Wakf", the word "Waqf" shall be substituted.

Amendment
of section 1.

Substitution of references to certain expressions by certain other expressions.

4. Throughout the principal Act, for the words "wakf", "wakfs" and "wakif", wherever they occur, the words "waqf", "auqaf" and "waqif" shall, respectively, be substituted, and such other consequential amendments as the rules of grammar may require shall also be made.

Amendment of section 3.

5. In section 3 of the principal Act,—

(i) after clause (e), the following clause shall be inserted, namely:—

'(ee) "encroacher" means any person or institution, public or private, occupying waqf property, in whole or part, without the authority of law and includes a person whose tenancy, lease or licence has expired or has been terminated by mutawalli or the Board;';

(ii) for clause (g), the following clause shall be substituted, namely:—

'(g) "list of auqaf" means the list of auqaf published under sub-section (2) of section 5 or contained in the register of auqaf maintained under section 37;';

(iii) in clause (i), after the proviso, the following provisos shall be inserted, namely:—

"Provided further that the mutawalli shall be a citizen of India and shall fulfil such other qualifications as may be prescribed:

Provided also that in case a waqf has specified any qualifications, such qualifications may be provided in the rules as may be made by the State Government;";

(iv) in clause (k), in sub-clause (i), for the words "worship" and "khangah"; the words "offer prayer" and "khanqah, peerkhana and karbala" shall, respectively, be substituted;

(v) for clause (r), the following clause shall be substituted, namely:—

'(r) "waqf" means the permanent dedication by any person, of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes—

(i) a waqf by user but such waqf shall not cease to be a waqf by reason only of the user having ceased irrespective of the period of such cesser;

(ii) a Shamlat Patti, Shamlat Deh, Jumla Malkkan or by any other name entered in a revenue record;

(iii) "grants", including mashrat-ul-khidmat for any purpose recognised by the Muslim law as pious, religious or charitable; and

(iv) a waqf-alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable, provided when the line of succession fails, the income of the waqf shall be spent for education, development, welfare and such other purposes as recognised by Muslim law,

and "waqif" means any person making such dedication;'

Amendment of section 4.

6. In section 4 of the principal Act,—

(a) in sub-section (1), for the words "wakfs existing in the State at the date of the commencement of this Act", the words "auqaf in the State" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Every State Government shall maintain a list of auqaf referred to in sub-section (1) and the survey of auqaf shall be completed within a period of one year from the date of commencement of the Wakf (Amendment) Act, 2013, in case such survey was not done before the commencement of the Wakf (Amendment) Act, 2013:

Provided that where no Survey Commissioner of Waqf has been appointed, a Survey Commissioner for auqaf shall be appointed within three months from the date of such commencement.”;

(c) in sub-section (6),—

(i) in the proviso, for the words “twenty years”, the words “ten years” shall be substituted;

(ii) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that the waqf properties already notified shall not be reviewed again in subsequent survey except where the status of such property has been changed in accordance with the provisions of any law.”

7. In section 5 of the principal Act,—

Amendment
of section 5.

(a) in sub-section (2), for the words “publish in the Official Gazette”, the words “forward it back to the Government within a period of six months for publication in the Official Gazette” shall be substituted;

(b) after sub-section (2), the following sub-sections shall be inserted, namely:—

“(3) The revenue authorities shall—

(i) include the list of auqaf referred to in sub-section (2), while updating the land records; and

(ii) take into consideration the list of auqaf referred to in sub-section (2), while deciding mutation in the land records.

(4) The State Government shall maintain a record of the lists published under sub-section (2) from time to time.”

8. In section 6 of the principal Act, in sub-section (1),—

Amendment
of section 6.

(a) for the words “any person interested therein”, the words “any person aggrieved” shall be substituted;

(b) after the proviso, the following proviso shall be inserted, namely:—

“Provided further that no suit shall be instituted before the Tribunal in respect of such properties notified in a second or subsequent survey pursuant to the provisions contained in sub-section (6) of section 4.”;

(c) the *Explanation* shall be omitted.

9. In section 7 of the principal Act,—

Amendment
of section 7.

(a) in sub-section (1),—

(i) for the words “any question”, the words “any question or dispute” shall be substituted;

(ii) for the words “or any person interested”, the words and figure “or any person aggrieved by the publication of the list of auqaf under section 5” shall be substituted;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

“(6) The Tribunal shall have the powers of assessment of damages by unauthorised occupation of waqf property and to penalise such unauthorised occupants for their illegal occupation of the waqf property and to recover the damages as arrears of land revenue through the Collector:

Provided that whosoever, being a public servant, fails in his lawful duty to prevent or remove an encroachment, shall on conviction be punishable with fine which may extend to fifteen thousand rupees for each such offence.”

Substitution of
new section
for section 8.

10. For section 8 of the principal Act, the following section shall be substituted, namely:—

State
Government
to bear cost of
survey.

“8. The total cost of making a survey including the cost of publication of the list or lists of auqaf under this Chapter shall be borne by the State Government.”

Amendment
of section 9.

11. In section 9 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) The Central Government may, by notification in the Official Gazette, establish a Council to be called the Central Waqf Council, for the purpose of advising the Central Government, the State Governments and the Boards on matters concerning the working of Boards and the due administration of auqaf.

(1A) The Council referred to in sub-section (1) shall issue directives to the Boards, on such issues and in such manner, as provided under sub-sections (4) and (5).”;

(b) in sub-section (2), in clause (b),—

(i) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) four persons of national eminence, one each from the fields of administration or management, financial management, engineering or architecture and medicine;”;

(ii) after sub-clause (viii), the following proviso shall be inserted, namely:—

“Provided that at least two of the members appointed under sub-clauses (i) to (viii) shall be women.”;

(c) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) The State Government or, as the case may be, the Board, shall furnish information to the Council on the performance of Waqf Boards in the State, particularly on their financial performance, survey, maintenance of waqf deeds, revenue records, encroachment of waqf properties, annual reports and audit reports in the manner and time as may be specified by the Council and it may *suo motu* call for information on specific issues from the Board, if it is satisfied that there was *prima facie* evidence of irregularity or violation of the provisions of this Act and if the Council is satisfied that such irregularity or violation of the Act is established, it may issue such directive, as considered appropriate, which shall be complied with by the concerned Board under intimation to the concerned State Government.

(5) Any dispute arising out of a directive issued by the Council under sub-section (4) shall be referred to a Board of Adjudication to be constituted by the Central Government, to be presided over by a retired Judge of the Supreme Court or a retired Chief Justice of a High Court and the fees and travelling and other allowances payable to the Presiding Officer shall be such as may be specified by that Government.”.

12. In section 13 of the principal Act,—

Amendment
of section 13.

(a) after sub-section (1), the following proviso shall be inserted, namely:—

“Provided that in case where a Board of Waqf has not been established, as required under this sub-section, a Board of Waqf shall, without prejudice to the provisions of this Act or any other law for the time being in force, be established within six months from the date of commencement of the Wakf (Amendment) Act, 2013.”;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Where a Board of Waqf is established under sub-section (2) of section 13, in the case of Shia waqf, the Members shall belong to the Shia Muslim and in the case of Sunni waqf, the Members shall belong to the Sunni Muslim.”.

13. In section 14 of the principal Act,—

Amendment
of section 14.

(1) in sub-section (1),—

(i) for the words “the Union territory of Delhi”, wherever they occur, the words “the National Capital Territory of Delhi” shall be substituted;

(ii) in clause (b),—

(a) for sub-clause (iii), the following sub-clause shall be substituted, namely:—

“(iii) Muslim members of the Bar Council of the concerned State or Union territory:

Provided that in case there is no Muslim member of the Bar Council of a State or a Union territory, the State Government or the Union territory administration, as the case may be, may nominate any senior Muslim advocate from that State or the Union territory, and”;

(b) after sub-clause (iv), the following *Explanations* shall be inserted, namely:—

“*Explanation I.*—For the removal of doubts, it is hereby declared that the members from categories mentioned in sub-clauses (i) to (iv), shall be elected from the electoral college constituted for each category.

“*Explanation II.*—For the removal of doubts it is hereby declared that in case a Muslim member ceases to be a Member of Parliament from the State or National Capital Territory of Delhi as referred to in sub-clause (i) of clause (b) or ceases to be a Member of the State Legislative Assembly as required under sub-clause (ii) of clause (b), such member shall be deemed to have vacated the office of the member of the Board for the State or National Capital Territory of Delhi, as the case may be, from the date from which such member ceased to be a Member of Parliament from the State

or National Capital Territory of Delhi, or a Member of the State Legislative Assembly, as the case may be;”;

(iii) for clauses (c) to (e), the following clauses shall be substituted, namely:—

“(c) one person from amongst Muslims, who has professional experience in town planning or business management, social work, finance or revenue, agriculture and development activities, to be nominated by the State Government;

(d) one person each from amongst Muslims, to be nominated by the State Government from recognised scholars in Shia and Sunni Islamic Theology;

(e) one person from amongst Muslims, to be nominated by the State Government from amongst the officers of the State Government not below the rank of Joint Secretary to the State Government;”;

(II) after sub-section (I), the following sub-section shall be inserted, namely:—

“(IA) No Minister of the Central Government or, as the case may be, a State Government, shall be elected or nominated as a member of the Board:

Provided that in case of a Union territory, the Board shall consist of not less than five and not more than seven members to be appointed by the Central Government from categories specified under sub-clauses (i) to (iv) of clause (b) or clauses (c) to (e) in sub-section (I):

Provided further that at least two Members appointed on the Board shall be women:

Provided also that in every case where the system of mutawalli exists, there shall be one mutawalli as the member of the Board.”;

(III) sub-section (5) shall be omitted.

(IV) sub-section (7) shall be omitted.

Amendment
of section 15.

14. In section 15 of the principal Act, the words, brackets and figures “from the date of notification referred to in sub-section (9) of section 14” shall be inserted at the end.

Amendment
of section 16.

15. In section 16 of the principal Act, after clause (d), the following clause shall be inserted, namely:—

“(da) he has been held guilty of encroachment on any waqf property;”.

Insertion of
new section
20A.

16. After section 20 of the principal Act, the following section shall be inserted, namely:—

Removal of
Chairperson
by vote of no
confidence.

“20A. Without prejudice to the provisions of section 20, the Chairperson of a Board may be removed by vote of no confidence in the following manner, namely:—

(a) no resolution expressing a vote of confidence or no confidence in any person elected as Chairperson of a Board shall be moved except in the manner prescribed and twelve months have not elapsed after the date of his election as a Chairperson and be removed except with the prior permission of the State Government;

(b) notice for no confidence shall be addressed to the State Government stating clearly the grounds on which such motion is proposed to be moved and shall be signed by at least half the total members of the Board;

(c) at least three members of the Board signing the notice of no confidence shall personally present to the State Government, the notice together with an affidavit signed by them to the effect that the signatures on no confidence motion are genuine and have been made by the signatories after hearing or reading the contents of the notice;

(d) on receipt of the notice of no confidence, as provided hereinabove, the State Government shall fix such time, date and place as may be considered suitable for holding a meeting for the purpose of the proposed no confidence motion:

Provided that at least fifteen days notice shall be given for such a meeting;

(e) notice for meeting under clause (d) shall also provide that in the event of no confidence motion being duly carried on or, election of the new Chairperson, as the case may be, shall also be held in the same meeting;

(f) the State Government shall also nominate a Gazetted Officer (other than an officer of the department which is concerned with the supervision and administration of the Board) to act as presiding officer of the meeting in which the resolution for no confidence shall be considered;

(g) the quorum for such a meeting of the Board shall be one-half of the total number of members of the Board;

(h) the resolution for no confidence shall be deemed to be carried out, if passed by a simple majority of the members present;

(i) if a resolution for no confidence is carried out, the Chairperson shall cease to hold office forthwith and shall be succeeded by his successor who shall be elected by another resolution in the same meeting;

(j) election of the new Chairperson shall be conducted under clause (i), in the meeting under the chairmanship of the said presiding officer referred to in clause (f), in the following manner, namely:—

(A) Chairperson shall be elected from amongst the elected members of the Board;

(B) nomination of candidates shall be proposed and seconded in the meeting itself and election after withdrawal, if any, shall be held by method of secret ballot;

(C) election shall be held by simple majority of the members present in the meeting and in case of equality of votes, the matter shall be decided by drawing of lots; and

(D) proceedings of the meeting shall be signed by the presiding officer;

(k) new Chairperson elected under clause (h) shall hold the office only up to the remainder of the term of the Chairperson removed by the resolution of no confidence; and

(l) if the motion for passing the resolution of no confidence fails for want of quorum or lack of requisite majority at the meeting, no subsequent meeting for considering the motion of no confidence shall be held within six months of the date of the previous meeting.”

Amendment
of section 23.

17. In section 23 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) There shall be a full-time Chief Executive Officer of the Board who shall be a Muslim and shall be appointed by the State Government, by notification in the Official Gazette, from a panel of two names suggested by the Board and who shall not be below the rank of Deputy Secretary to the State Government, and in case of non-availability of a Muslim officer of that rank, a Muslim officer of equivalent rank may be appointed on deputation.”.

Substitution of
new section
for section 27.

18. For section 27 of the principal Act, the following section shall be substituted, namely:—

Delegation of
powers by
Board.

“27. The Board may, by a general or special order in writing, delegate to the Chairperson, any other member, the Chief Executive Officer or any other officer or servant of the Board or any area committee, subject to such conditions and limitations as may be specified in the said order, such of its powers and duties under this Act, as it may deem necessary, except the powers and functions of the Board mentioned under clauses (c), (d), (g) and (j) of sub-section (2) of section 32 and section 110.”.

Substitution of
new section
for section 28.

19. For section 28 of the principal Act, the following section shall be substituted, namely:—

Power of
District
Magistrate,
Additional
District
Magistrate or
Sub-Divisional
Magistrate to
implement the
directions of
the Board.

“28. Subject to the provisions of this Act and the rules made thereunder, the District Magistrate or in his absence an Additional District Magistrate or Sub-Divisional Magistrate of a District in the State shall be responsible for implementation of the decisions of the Board which may be conveyed through the Chief Executive Officer and the Board may, wherever considers necessary, seek directions from the Tribunal for the implementation of its decisions.”.

Amendment
of section 29.

20. Section 29 of the principal Act shall be numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so numbered, for the words “subject to such conditions and restrictions as may be prescribed and subject to the payment of such fees as may be leviable under any law for the time being in force”, the words “subject to such conditions as may be prescribed” shall be substituted;

(b) after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:—

“(2) The mutawalli or any other person having the custody of any document related to waqf properties shall produce the same, within the prescribed period, before the Chief Executive Officer on being called upon to do so in writing.

(3) Subject to such conditions as may be prescribed, an agency of the Government or any other organisation shall supply, within ten working days, copies of the records, registers of properties or other documents relating to waqf properties or claimed to be waqf properties, to the Chief Executive Officer on a written request to this effect from him:

Provided that before taking any course of action as mentioned in sub-sections (2) and (3), the Chief Executive Officer shall obtain approval of the Board.”.

21. In section 31 of the principal Act, the following shall be inserted at the end, namely:— Amendment of section 31.

“or a Member of Union territory Legislature or a Member of a State Legislature if so declared under a law made by the appropriate State Legislature”.

22. In section 32 of the principal Act,— Amendment of section 32.

(1) in sub-section (2),—

(a) for clause (j), the following clause, shall be substituted, namely:—

“(j) to sanction lease of any immovable property of a waqf in accordance with the provisions of this Act and the rules made thereunder:

Provided that no such sanction shall be given unless a majority of not less than two-thirds of the members of the Board present cast their vote in favour of such transaction:

Provided further that where no such sanction is given by the Board, the reasons for doing so shall be recorded in writing.”;

(b) after clause (n), the following clause shall be inserted, namely:—

“(na) to determine or cause to be determined, in such manner as may be specified by the Board, market rent of the waqf land or building;”;

(II) in sub-section (4), for the words “offers a feasible potential for development as a shopping centre”, the words “has the potential for development as an educational institution, shopping centre, market, housing or residential flats and the like” shall be substituted;

(III) in sub-section (5), the words “with the prior approval of the Government,” shall be omitted.

23. In section 33 of the principal Act, in sub-section (1),— Amendment of section 33.

(a) after the words “the Chief Executive Officer”, the words “or any other person authorised by him in writing” shall be inserted;

(b) the words “either himself or any other person authorised by him in writing in this behalf” shall be omitted.

24. In section 36 of the principal Act, in sub-section (2), in the proviso, for the words “made by the wakf”, the words “made by the waqf” shall be substituted. Amendment of section 36.

25. Section 37 of the principal Act shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:— Amendment of section 37.

“(2) The Board shall forward the details of the properties entered in the register of auqaf to the concerned land record office having jurisdiction of the waqf property.

(3) On receipt of the details as mentioned in sub-section (2), the land record office shall, according to established procedure, either make necessary entries in the land record or communicate, within a period of six months from the date of registration of waqf property under section 36, its objections to the Board.”

26. In section 44 of the principal Act,— Amendment of section 44.

(a) in sub-section (2), for the words “ninety days”, the words “thirty days” shall be substituted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) In case the Board considers any item in the budget being contrary to the objects of the waqf and the provisions of this Act, it may give such direction for addition or deletion of such item as it may deem fit.”

Amendment of section 46. 27. In section 46 of the principal Act, in sub-section (2), for the figure, letters and words “1st day of May”, at both the places where they occur, the figure, letters and words “1st day of July” shall be substituted.

Amendment of section 47. 28. In section 47 of the principal Act,—

(I) in sub-section (I),—

(i) in clause (a), for the words “ten thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(ii) in clause (b), for the words “ten thousand rupees”, the words “fifty thousand rupees” shall be substituted;

(iii) in clause (c), after the words “the State Government may,” the words “under intimation to the Board,” shall be inserted;

(II) in sub-section (3), in the first proviso, for the words “more than ten thousand rupees but less than fifteen thousand rupees”, the words “more than fifty thousand rupees” shall be substituted.

Amendment of section 51. 29. In section 51 of the principal Act,—

(i) for sub-section (I), the following sub-sections shall be substituted, namely:—

“(I) Notwithstanding anything contained in the waqf deed, any lease of any immovable property which is waqf property, shall be void unless such lease is effected with the prior sanction of the Board:

Provided that no mosque, dargah, khanqah, graveyard, or imambara shall be leased except any unused graveyards in the States of Punjab, Haryana and Himachal Pradesh where such graveyard has been leased out before the date of commencement of the Wakf (Amendment) Act, 2013.

(IA) Any sale, gift, exchange, mortgage or transfer of waqf property shall be void *ab initio*:

Provided that in case the Board is satisfied that any waqf property may be developed for the purposes of the Act, it may, after recording reasons in writing, take up the development of such property through such agency and in such manner as the Board may determine and move a resolution containing recommendation of development of such waqf property, which shall be passed by a majority of two-thirds of the total membership of the Board:

Provided further that nothing contained in this sub-section shall affect any acquisition of waqf properties for a public purpose under the Land Acquisition Act, 1894 or any other law relating to acquisition of land if such acquisition is made in consultation with the Board:

Provided also that—

(u) the acquisition shall not be in contravention of the Places of Public Worship (Special Provisions) Act, 1991;

1 of 1894.

42 of 1951.

(b) the purpose for which the land is being acquired shall be undisputedly for a public purpose;

(c) no alternative land is available which shall be considered as more or less suitable for that purpose; and

(d) to safeguard adequately the interest and objective of the waqf, the compensation shall be at the prevailing market value or a suitable land with reasonable solatium in lieu of the acquired property.”;

(ii) sub-sections (2), (3), (4) and (5) shall be omitted.

30. In section 52 of the principal Act, in sub-section (1), after the words and figures “provisions of section 51”, the words and figures “or section 56” shall be inserted.

Amendment of section 52.

31. After section 52 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 52A.

“52A. (1) Whoever alienates or purchases or takes possession of, in any manner whatsoever, either permanently or temporarily, any movable or immovable property being a waqf property, without prior sanction of the Board, shall be punishable with rigorous imprisonment for a term which may extend to two years:

Penalty for alienation of waqf property without sanction of Board.

Provided that the waqf property so alienated shall without prejudice to the provisions of any law for the time being in force, be vested in the Board without any compensation therefor.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 any offence punishable under this section shall be cognizable and non-bailable.

(3) No court shall take cognizance of any offence under this section except on a complaint made by the Board or any officer duly authorised by the State Government in this behalf.

(4) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this section.”.

32. In section 54 of the principal Act,—

Amendment of section 54.

(a) in sub-section (3), for the words “he may, by an order, require the encroacher to remove”; the words “he may, make an application to the Tribunal for grant of order of eviction for removing” shall be substituted;

(b) for sub-section (4), the following sub-sections shall be substituted, namely:—

“(4) The Tribunal, upon receipt of such application from the Chief Executive Officer, for reasons to be recorded therein, make an order of eviction directing that the waqf property shall be vacated by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the waqf property:

Provided that the Tribunal may before making an order of eviction, give an opportunity of being heard to the person against whom the application for eviction has been made by the Chief Executive Officer.

(5) If any person refuses or fails to comply with the order of eviction within forty-five days from the date of affixture of the order under sub-section (2), the Chief Executive Officer or any other person duly authorised by him in this behalf may evict that person from, and take possession of, the waqf property.”.

Amendment
of section 55.

33. In section 55 of the principal Act,—

(a) for the word, brackets and figure “sub-section (3)”, the word, brackets and figure “sub-section (4)” shall be substituted;

(b) for the words “apply to the Sub-Divisional Magistrate”, the words “refer the order of the Tribunal to the Executive Magistrate” shall be substituted.

Insertion of
new section
55A.

Disposal of
property left
on waqf
property by
unauthorised
occupants.

34. After section 55 of the principal Act, the following section shall be inserted, namely:—

“55A. (1) Where any person has been evicted from any waqf property under sub-section (4) of section 54, the Chief Executive Officer may, after giving fourteen days’ notice to the person from whom possession of the waqf property has been taken and after publishing the notice in at least one newspaper having circulation in the locality and after proclaiming the contents of the notice by placing it on conspicuous part of the waqf property, remove or cause to be removed or dispose of by public auction any property remaining on such premises.

(2) Where any property is sold under sub-section (1), the sale proceeds shall, after deducting the expenses relating to removal, sale and such other expenses, the amount, if any, due to the State Government or a local authority or a corporate authority on account of arrears of rent, damages or costs, be paid to such person, as may appear to the Chief Executive Officer to be entitled to the same:

Provided that where the Chief Executive Officer is unable to decide as to the person to whom the balance of the amount is payable or as to the appointment of the same, he may refer such dispute to the Tribunal and the decision of the Tribunal thereon shall be final.”

Amendment
of section 56.

35. In section 56 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “A lease or sub-lease for any period exceeding three years”, the words “A lease for any period exceeding thirty years” shall be substituted;

(ii) the following provisos shall be inserted at the end, namely:—

“Provided that a lease for any period up to thirty years may be made for commercial activities, education or health purposes, with the approval of the State Government, for such period and purposes as may be specified in the rules made by the Central Government:

Provided further that lease of any immovable waqf property, which is an agricultural land, for a period exceeding three years shall, notwithstanding anything contained in the deed or instrument of waqf or in any other law for the time being in force, be void and of no effect:

Provided also that before making lease of any waqf property, the Board shall publish the details of lease and invite bids in at least one leading national and regional news papers.”

(b) in sub-section (2), for the words “A lease or sub-lease for any period exceeding one year and not exceeding three years”, the words “A lease for a period of one year but not exceeding thirty years” shall be substituted;

(c) in sub-section (3),—

(i) the words “or sub-lease”, at both the places where they occur, shall be omitted;

(ii) the following proviso shall be inserted at the end, namely:—

“Provided that the Board shall immediately intimate the State Government regarding a lease for any period exceeding three years of any waqf property and thereafter it may become effective after the expiry of forty-five days from the date on which the Board intimates the State Government.”;

(d) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

36. In section 61 of the principal Act, in sub-section (1), for the words “eight thousand rupees”, the words, brackets and letters “ten thousand rupees for non-compliance of clauses (a) to (d) and in case of non-compliance of clauses (e) to (h), he shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to ten thousand rupees” shall be substituted. Amendment of section 61.

37. In section 65 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:— Amendment of section 65.

“(5) Notwithstanding anything contained in sub-section (1), the Board shall take over the administration of a waqf, if the waqf Board has evidence before it to prove that management of the waqf has contravened the provisions of this Act.”.

38. In section 68 of the principal Act,—

(i) in sub-section (2), for the words “Magistrate of the first class” and “Magistrate”, the words “District Magistrate, Additional District Magistrate, Sub-Divisional Magistrate or their equivalent” shall be substituted; Amendment of section 68.

(ii) in sub-sections (3), (4), (5) and sub-section (6), for the words “the Magistrate” the words “any Magistrate” shall be substituted.

39. In section 69 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— Amendment of section 69.

“(1) Where the Board is satisfied after an enquiry, whether on its own motion or on the application of not less than five persons interested in any waqf, to frame a scheme for the proper administration of the waqf, it may, by an order, frame such scheme for the administration of the waqf, after giving reasonable opportunity and after consultation with the mutawalli or others in the prescribed manner.”.

40. In section 71 of the principal Act, in sub-section (1), for the figures “73”, the figures “70” shall be substituted. Amendment of section 71.

41. In section 72 of the principal Act, in sub-section (1), in *Explanation 1*, in clause (iii),— Amendment of section 72.

(i) after the words “following purposes”, the words “in respect of lands directly under cultivation by the mutawalli for the benefit of the waqf” shall be inserted;

(ii) in sub-clause (f), in the proviso, for the words "ten per cent.", the words "twenty per cent." shall be substituted;

(iii) after the proviso, the following proviso shall be inserted, namely:—

"Provided further that no such deduction shall be permitted in respect of waqf land given on lease, by whatever name called, whether *batai* or share cropping or any other name."

Amendment
of section 77.

42. In section 77 of the principal Act, in sub-section (4), after clause (f), the following clause shall be inserted, namely:—

"(g) payment of maintenance to Muslim women as ordered by a court of competent jurisdiction under the provisions of the Muslim Women (Protection of Rights on Divorce) Act, 1986."

25 of 1986.

Amendment
of section 81.

43. In section 81 of the principal Act, after the words "as it thinks fit", the following shall be inserted at the end, namely:—

"and a copy of the said auditor's report, along with orders shall be forwarded by the State Government to the Council within a period of thirty days of laying of such report before each House of the State Legislature where it consists of two Houses or where such Legislatures consist of one House, before that House."

Amendment
of section 83.

44. In section 83 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The State Government shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit, for the determination of any dispute, question or other matter relating to a waqf or waqf property, eviction of a tenant or determination of rights and obligations of the lessor and the lessee of such property, under this Act and define the local limits and jurisdiction of such Tribunals;"

(b) for sub-section (4), the following sub-sections shall be substituted, namely:—

"(4) Every Tribunal shall consist of—

(a) one person, who shall be a member of the State Judicial Service holding a rank, not below that of a District, Sessions or Civil Judge, Class I, who shall be the Chairman;

(b) one person, who shall be an officer from the State Civil Services equivalent in rank to that of the Additional District Magistrate, Member;

(c) one person having knowledge of Muslim law and jurisprudence, Member;

and the appointment of every such person shall be made either by name or by designation.

(4A) The terms and conditions of appointment including the salaries and allowances payable to the Chairman and other members other than persons appointed as *ex officio* members shall be such as may be prescribed."

Amendment
of section 85.

45. In section 85 of the principal Act, for the words "civil court", the words "civil court, revenue court and any other authority" shall be substituted.

46. In section 86 of the principal Act, in clause (b), after the words "a previous mutawalli", the words "or by any other person" shall be inserted.

Amendment of section 86.

47. Section 87 of the principal Act shall be omitted.

Omission of section 87.

48. In section 90 of the principal Act, in sub-section (3), for the words "one month", the words "six months" shall be substituted.

Amendment of section 90.

49. In section 91 of the principal Act, in sub-section (1), for the words "it appears to the collector before an award is made that any property", the words "and before an award is made, in case the property" shall be substituted.

Amendment of section 91.

50. In section 97 of the principal Act, the following proviso shall be inserted at the end, namely:—

Amendment of section 97.

"Provided that the State Government shall not issue any direction being contrary to any waqf deed or any usage; practice or custom of the waqf."

51. In section 99 of the principal Act,—

Amendment of section 99.

(a) in sub-section (1), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that the power of the State Government under this section shall not be exercised unless there is a *prima facie* evidence of financial irregularity, misconduct or violation of the provisions of this Act.;"

(b) in sub-section (3), for clause (a), the following clause shall be substituted, namely:—

"(a) extend the period of supersession by another six months with reasons to be recorded in writing and, the period of continuous supersession shall not exceed more than a year; or".

52. In section 102 of the principal Act, in sub-section (2), for the words "after consulting the State Governments", the words "after consulting the Council and the State Governments" shall be substituted.

Amendment of section 102.

53. After section 104 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 104A.

"104A. (1) Notwithstanding anything contained in this Act or any other law for the time being in force or any waqf deed, no person shall sell, gift, exchange, mortgage or transfer any movable or immovable property which is a waqf property to any other person.

Prohibition of sale, gift, exchange, mortgage or transfer of waqf property.

(2) Any sale, gift, exchange, mortgage or transfer of property referred to in sub-section (1) shall be void *ab initio*."

54. After section 104A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 104B.

"104B. (1) If any waqf property has been occupied by the Government agencies it shall be returned to the Board or the mutawalli within a period of six months from the date of the order of the Tribunal.

Restoration of waqf properties in occupation of Government agencies to waqf Board.

(2) The Government agency may, if the property is required for a public purpose, make an application for determination of the rent, or as the case may be, the compensation, by the Tribunal at the prevailing market value.”

Amendment
of section
106.

55. In section 106 of the principal Act, in sub-section (1), for the words “after consultation with the Government”, the words “after consultation with the Council and the Government” shall be substituted.

Insertion of
new section
108A.

56. After section 108 of the principal Act, the following section shall be inserted, namely:—

Act to have
overriding
effect.

“108A. The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.”

Amendment
of section
109.

57. In section 109 of the principal Act, in sub-section (2),—

(a) for clause (i), the following clauses shall be substituted, namely:—

“(i) the qualifications required to be fulfilled by a person to be appointed as a mutawalli under clause (i) of section 3;

(ia) other particulars which the report of the Survey Commissioner may contain under clause (f) of sub-section (3) of section 4;”;

(b) in clause (vi), for the word “under”, the words, brackets and figure “under sub-section (1) of ” shall be substituted;

(c) after clause (vi), the following clauses shall be inserted, namely:—

“(via) the period within which the mutawalli or any other person may produce documents related to waqf properties under sub-section (2) of section 31;

(vib) the conditions under which an agency of the Government or any other organisation may supply copies of records, registers and other documents under sub-section (3) of section 31;”;

(d) clause (xi) shall be omitted;

(e) after clause (xxii), the following clause shall be inserted, namely:—

“(xxiia) the terms and conditions of appointment including the salaries and allowances payable to the Chairman and other members other than persons appointed as *ex officio* members under sub-section (4A) of section 83;”.

Bill No. 77-F of 2011

**THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN
LAND ACQUISITION, REHABILITATION AND
RESETTLEMENT ACT, 2013**

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Bhopal, the 4th April 2014

No. 2199-82-XXI-A(Dr.)—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary, Part-II, Section I, dated the 27th September, 2013 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 26th September, 2013.

By order and in the name of the Governor of Madhya Pradesh,
RAJESH YADAV, Addl. Secy.

THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND
ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013
(Act No. 30 of 2013)

AN ACT

to ensure, in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post acquisition social and economic status and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Short title,
extent and
commence-
ment.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that the Central Government shall appoint such date within three months from the date on which the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2013 receives the assent of the President.

Application of Act.

2. (1) The provisions of this Act relating to land acquisition, compensation, rehabilitation and resettlement, shall apply, when the appropriate Government acquires land for its own use, hold and control, including for Public Sector Undertakings and for public purpose, and shall include the following purposes, namely:—

(a) for strategic purposes relating to naval, military, air force, and armed forces of the Union, including central paramilitary forces or any work vital to national security or defence of India or State police, safety of the people; or

(b) for infrastructure projects, which includes the following, namely:—

(i) all activities or items listed in the notification of the Government of India in the Department of Economic Affairs (Infrastructure Section) number 13/6/2009-INF, dated the 27th March, 2012, excluding private hospitals, private educational institutions and private hotels;

(ii) projects involving agro-processing, supply of inputs to agriculture, warehousing, cold storage facilities, marketing infrastructure for agriculture and allied activities such as dairy, fisheries, and meat processing, set up or owned by the appropriate Government or by a farmers' cooperative or by an institution set up under a statute;

(iii) project for industrial corridors or mining activities, national investment and manufacturing zones, as designated in the National Manufacturing Policy;

(iv) project for water harvesting and water conservation structures, sanitation;

(v) project for Government administered, Government aided educational and research schemes or institutions;

(vi) project for sports, health care, tourism, transportation or space programme;

(vii) any infrastructure facility as may be notified in this regard by the Central Government and after tabling of such notification in Parliament;

(c) project for project affected families;

(d) project for housing for such income groups, as may be specified from time to time by the appropriate Government;

(e) project for planned development or the improvement of village sites or any site in the urban areas or provision of land for residential purposes for the weaker sections in rural and urban areas;

(f) project for residential purposes to the poor or landless or to persons residing in areas affected by natural calamities, or to persons displaced or affected by reason of the implementation of any scheme undertaken by the Government, any local authority or a corporation owned or controlled by the State.

(2) The provisions of this Act relating to land acquisition, consent, compensation, rehabilitation and resettlement, shall also apply, when the appropriate Government acquires land for the following purposes, namely:—

(a) for public private partnership projects, where the ownership of the land continues to vest with the Government, for public purpose as defined in sub-section (1);

(b) for private companies for public purpose, as defined in sub-section (1):

Provided that in the case of acquisition for—

(i) private companies, the prior consent of at least eighty per cent. of those affected families, as defined in sub-clauses (i) and (v) of clause (c) of section 3; and

(ii) public private partnership projects, the prior consent of at least seventy per cent. of those affected families, as defined in sub-clauses (i) and (v) of clause (c) of section 3,

shall be obtained through a process as may be prescribed by the appropriate Government:

Provided further that the process of obtaining the consent shall be carried out along with the Social Impact Assessment study referred to in section 4:

Provided also that no land shall be transferred by way of acquisition, in the Scheduled Areas in contravention of any law (including any order or judgment of a court which has become final) relating to land transfer, prevailing in such Scheduled Areas.

(3) The provisions relating to rehabilitation and resettlement under this Act shall apply in the cases where,—

(a) a private company purchases land, equal to or more than such limits in rural areas or urban areas, as may be prescribed by the appropriate Government, through private negotiations with the owner of the land in accordance with the provisions of section 46;

(b) a private company requests the appropriate Government for acquisition of a part of an area so prescribed for a public purpose:

Provided that where a private company requests the appropriate Government for partial acquisition of land for public purpose, then, the rehabilitation and resettlement entitlements under the Second Schedule shall be applicable for the entire area which includes the land purchased by the private company and acquired by the Government for the project as a whole.

3. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Administrator" means an officer appointed for the purpose of rehabilitation and resettlement of affected families under sub-section (1) of section 43;

(b) "affected area" means such area as may be notified by the appropriate Government for the purposes of land acquisition;

(c) "affected family" includes—

(i) a family whose land or other immovable property has been acquired;

(ii) a family which does not own any land but a member or members of such family may be agricultural labourers, tenants including any form of tenancy or holding of usufruct right, share-croppers or artisans or who may be working in the affected area for three years prior to the acquisition of the land, whose primary source of livelihood stand affected by the acquisition of land;

(iii) the Scheduled Tribes and other traditional forest dwellers who have lost any of their forest rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 due to acquisition of land;

(iv) family whose primary source of livelihood for three years prior to the acquisition of the land is dependent on forests or water bodies and includes gatherers of forest produce, hunters, fisher folk and boatmen and such livelihood is affected due to acquisition of land;

(v) a member of the family who has been assigned land by the State Government or the Central Government under any of its schemes and such land is under acquisition;

(vi) a family residing on any land in the urban areas for preceding three years or more prior to the acquisition of the land or whose primary source of livelihood for three years prior to the acquisition of the land is affected by the acquisition of such land;

(d) "agricultural land" means land used for the purpose of—

(i) agriculture or horticulture;

(ii) dairy farming, poultry farming, pisciculture, sericulture, seed farming breeding of livestock or nursery growing medicinal herbs;

(iii) raising of crops, trees, grass or garden produce; and

(iv) land used for the grazing of cattle;

(e) "appropriate Government" means,—

(i) in relation to acquisition of land situated within the territory of, a State, the State Government;

(ii) in relation to acquisition of land situated within a Union territory (except Puducherry), the Central Government;

(iii) in relation to acquisition of land situated within the Union territory of Puducherry, the Government of Union territory of Puducherry;

(iv) in relation to acquisition of land for public purpose in more than one State, the Central Government, in consultation with the concerned State Governments or Union territories; and

(v) in relation to the acquisition of land for the purpose of the Union as may be specified by notification, the Central Government;

Provided that in respect of a public purpose in a District for an area not exceeding such as may be notified by the appropriate Government, the Collector of such District shall be deemed to be the appropriate Government;

(f) "Authority" means the Land Acquisition and Rehabilitation and Resettlement Authority established under section 51;

(g) "Collector" means the Collector of a revenue district, and includes a Deputy Commissioner and any officer specially designated by the appropriate Government to perform the functions of a Collector under this Act;

(h) "Commissioner" means the Commissioner for Rehabilitation and Resettlement appointed under sub-section (1) of section 44;

(i) "cost of acquisition" includes—

(i) amount of compensation which includes solatium, any enhanced compensation ordered by the Land Acquisition and Rehabilitation and Resettlement Authority or the Court and interest payable thereon and any other amount determined as payable to the affected families by such Authority or Court;

(ii) demurrage to be paid for damages caused to the land and standing crops in the process of acquisition;

(iii) cost of acquisition of land and building for settlement of displaced or adversely affected families;

(iv) cost of development of infrastructure and amenities at the resettlement areas;

(v) cost of rehabilitation and resettlement as determined in accordance with the provisions of this Act;

(vi) administrative cost,—

(A) for acquisition of land, including both in the project site and out of project area lands, not exceeding such percentage of the cost of compensation as may be specified by the appropriate Government;

(B) for rehabilitation and resettlement of the owners of the land and other affected families whose land has been acquired or proposed to be acquired or other families affected by such acquisition;

(vii) cost of undertaking 'Social Impact Assessment study';

(j) "company" means—

1 of 1956.

(i) a company as defined in section 3 of the Companies Act, 1956, other than a Government company;

21 of 1860.

(ii) a society registered under the Societies Registration Act, 1860 or under any corresponding law for the time being in force in a State;

(k) "displaced family" means any family, who on account of acquisition of land has to be relocated and resettled from the affected area to the resettlement area;

(l) "entitled to act", in relation to a person, shall be deemed to include the following persons, namely:—

(i) trustees for other persons beneficially interested with reference to any such case, and that to the same extent as the person beneficially interested could have acted if free from disability;

(ii) the guardians of minors and the committees or managers of lunatics to the same extent as the minors, lunatics or other persons of unsound mind themselves, if free from disability, could have acted;

5 of 1908.

Provided that the provisions of Order XXXII of the First Schedule to the Code of Civil Procedure, 1908 shall, *mutatis mutandis*, apply in the case of persons interested appearing before a Collector or Authority by a next friend, or by a guardian for the case, in proceedings under this Act;

(m) "family" includes a person, his or her spouse, minor children, minor brothers and minor sisters dependent on him:

Provided that widows, divorcees and women deserted by families shall be considered separate families;

Explanation.—An adult of either gender with or without spouse or children or dependents shall be considered as a separate family for the purposes of this Act.

(n) "holding of land" means the total land held by a person as an owner, occupant or tenant or otherwise;

(o) "infrastructure project" shall include any one or more of the items specified in clause (b) of sub-section (1) of section 2;

(p) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(q) "landless" means such persons or class of persons who may be,—

(i) considered or specified as such under any State law for the time being in force; or

(ii) in a case of landless not being specified under sub-clause (i), as may be specified by the appropriate Government;

(r) "land owner" includes any person,—

(i) whose name is recorded as the owner of the land or building or part thereof, in the records of the authority concerned; or

(ii) any person who is granted forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 or under any other law for the time being in force; or 2 of 2007.

(iii) who is entitled to be granted Patta rights on the land under any law of the State including assigned lands; or

(iv) any person who has been declared as such by an order of the court or Authority;

(s) "local authority" includes a town planning authority (by whatever name called) set up under any law for the time being in force, a Panchayat as defined in article 243 and a Municipality as defined in article 243P, of the Constitution;

(t) "marginal farmer" means a cultivator with an un-irrigated land holding up to one hectare or irrigated land holding up to one-half hectare;

(u) "market value" means the value of land determined in accordance with section 26;

(v) "notification" means a notification published in the Gazette of India or, as the case may be, the Gazette of a State and the expression "notify" shall be construed accordingly;

(w) "patta" shall have the same meaning as assigned to it in the relevant Central or State Acts or rules or regulations made thereunder;

(x) "person interested" means—

(i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;

(ii) the Scheduled Tribes and other traditional forest dwellers, who have lost any forest rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006; 2 of 2007.

(iii) a person interested in an easement affecting the land;

(iv) persons having tenancy rights under the relevant State laws including share-croppers by whatever name they may be called; and

(v) any person whose primary source of livelihood is likely to be adversely affected;

(y) "prescribed" means prescribed by rules made under this Act;

(z) "project" means a project for which land is being acquired, irrespective of the number of persons affected;

(za) "public purpose" means the activities specified under sub-section (1) of section 2;

(zb) "Requiring Body" means a company, a body corporate, an institution, or any other organisation or person for whom land is to be acquired by the appropriate Government, and includes the appropriate Government, if the acquisition of land is for such Government either for its own use or for subsequent transfer of such land is for public purpose to a company, body corporate, an institution, or any other organisation, as the case may be, under lease, licence or through any other mode of transfer of land;

(zc) "Resettlement Area" means an area where the affected families who have been displaced as a result of land acquisition are resettled by the appropriate Government;

40 of 1996.

(zd) "Scheduled Areas" means the Scheduled Areas as defined in section 2 of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996;

(ze) "small farmer" means a cultivator with an un-irrigated land holding up to two hectares or with an irrigated land holding up to one hectare, but more than the holding of a marginal farmer.

CHAPTER II

DETERMINATION OF SOCIAL IMPACT AND PUBLIC PURPOSE

A.—PRELIMINARY INVESTIGATION FOR DETERMINATION OF SOCIAL IMPACT AND PUBLIC PURPOSE

4. (1) Whenever the appropriate Government intends to acquire land for a public purpose, it shall consult the concerned Panchayat, Municipality or Municipal Corporation, as the case may be, at village level or ward level, in the affected area and carry out a Social Impact Assessment study in consultation with them, in such manner and from such date as may be specified by such Government by notification.

Preparation of
Social Impact
Assessment
study.

(2) The notification issued by the appropriate Government for commencement of consultation and of the Social Impact Assessment study under sub-section (1) shall be made available in the local language to the Panchayat, Municipality or Municipal Corporation, as the case may be, and in the offices of the District Collector, the Sub-Divisional Magistrate and the Tehsil, and shall be published in the affected areas, in such manner as may be prescribed, and uploaded on the website of the appropriate Government:

Provided that the appropriate Government shall ensure that adequate representation has been given to the representatives of Panchayat, Gram Sabha, Municipality or Municipal Corporation, as the case may be, at the stage of carrying out the Social Impact Assessment study:

Provided further that the appropriate Government shall ensure the completion of the Social Impact Assessment study within a period of six months from the date of its commencement.

(3) The Social Impact Assessment study report referred to in sub-section (1) shall be made available to the public in the manner prescribed under section 6.

(4) The Social Impact Assessment study referred to in sub-section (1) shall, amongst other matters, include all the following, namely:—

- (a) assessment as to whether the proposed acquisition serves public purpose;
- (b) estimation of affected families and the number of families among them likely to be displaced;
- (c) extent of lands, public and private, houses, settlements and other common properties likely to be affected by the proposed acquisition;
- (d) whether the extent of land proposed for acquisition is the absolute bare-minimum extent needed for the project;
- (e) whether land acquisition at an alternate place has been considered and found not feasible;
- (f) study of social impacts of the project, and the nature and cost of addressing them and the impact of these costs on the overall costs of the project *vis-a-vis* the benefits of the project;

Provided that Environmental Impact Assessment study, if any, shall be carried out simultaneously and shall not be contingent upon the completion of the Social Impact Assessment study.

(5) While undertaking a Social Impact Assessment study under sub-section (1), the appropriate Government shall, amongst other things, take into consideration the impact that the project is likely to have on various components such as livelihood of affected families, public and community properties, assets and infrastructure particularly roads, public transport,

drainage, sanitation, sources of drinking water, sources of water for cattle, community ponds, grazing land, plantations, public utilities such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, anganwadis, children parks, places of worship, land for traditional tribal institutions and burial and cremation grounds.

(6) The appropriate Government shall require the authority conducting the Social Impact Assessment study to prepare a Social Impact Management Plan, listing the ameliorative measures required to be undertaken for addressing the impact for a specific component referred to in sub-section (5), and such measures shall not be less than what is provided under a scheme or programme, in operation in that area, of the Central Government or, as the case may be, the State Government, in operation in the affected area.

Public hearing
for Social
Impact
Assessment.

5. Whenever a Social Impact Assessment is required to be prepared under section 4, the appropriate Government shall ensure that a public hearing is held at the affected area, after giving adequate publicity about the date, time and venue for the public hearing, to ascertain the views of the affected families to be recorded and included in the Social Impact Assessment Report.

Publication of
Social Impact
Assessment
study.

6. (1) The appropriate Government shall ensure that the Social Impact Assessment study report and the Social Impact Management Plan referred to in sub-section (6) of section 4 are prepared and made available in the local language to the Panchayat, Municipality or Municipal Corporation, as the case may be, and the offices of the District Collector, the Sub-Divisional magistrate and the Tehsil, and shall be published in the affected areas, in such manner as may be prescribed, and uploaded on the website of the appropriate Government.

(2) Wherever Environment Impact Assessment is carried out, a copy of the Social Impact Assessment report shall be made available to the Impact Assessment Agency authorised by the Central Government to carry out environmental impact assessment:

Provided that, in respect of irrigation projects where the process of Environment Impact Assessment is required under the provisions of any other law for the time being in force, the provisions of this Act relating to Social Impact Assessment shall not apply.

B.—APPRAISAL OF SOCIAL IMPACT ASSESSMENT REPORT BY AN EXPERT GROUP

Appraisal of
Social Impact
Assessment
report by an
Expert Group.

7. (1) The appropriate Government shall ensure that the Social Impact Assessment report is evaluated by an independent multi-disciplinary Expert Group, as may be constituted by it.

(2) The Expert Group constituted under sub-section (1) shall include the following, namely:—

(a) two non-official social scientists;

(b) two representatives of Panchayat, Gram Sabha, Municipality or Municipal Corporation, as the case may be;

(c) two experts on rehabilitation; and

(d) a technical expert in the subject relating to the project.

(3) The appropriate Government may nominate a person from amongst the members of the Expert Group as the Chairperson of the Group.

(4) If the Expert Group constituted under sub-section (1), is of the opinion that,—

(a) the project does not serve any public purpose; or

(b) the social costs and adverse social impacts of the project outweigh the potential benefits,

it shall make a recommendation within two months from the date of its constitution to the effect that the project shall be abandoned forthwith and no further steps to acquire the land will be initiated in respect of the same:

Provided that the grounds for such recommendation shall be recorded in writing by the Expert Group giving the details and reasons for such decision:

Provided further that where the appropriate Government, inspite of such recommendations, proceeds with the acquisition, then, it shall ensure that its reasons for doing so are recorded in writing.

(5) If the Expert Group constituted under sub-section (1), is of the opinion that,—

(a) the project will serve any public purpose; and

(b) the potential benefits outweigh the social costs and adverse social impacts,

it shall make specific recommendations within two months from the date of its constitution whether the extent of land proposed to be acquired is the absolute bare-minimum extent needed for the project and whether there are no other less displacing options available:

Provided that the grounds for such recommendation shall be recorded in writing by the Expert Group giving the details and reasons for such decision.

(6) The recommendations of the Expert Group referred to in sub-sections (4) and (5) shall be made available in the local language to the Panchayat, Municipality or Municipal Corporation, as the case may be, and the offices of the District Collector, the Sub-Divisional Magistrate and the Tehsil, and shall be published in the affected areas, in such manner as may be prescribed and uploaded on the website of the appropriate Government.

8. (1) The appropriate Government shall ensure that—

(a) there is a legitimate and *bona fide* public purpose for the proposed acquisition which necessitates the acquisition of the land identified;

(b) the potential benefits and the public purpose referred to in clause (a) shall outweigh the social costs and adverse social impact as determined by the Social Impact Assessment that has been carried out;

(c) only the minimum area of land required for the project is proposed to be acquired;

(d) there is no unutilised land which has been previously acquired in the area;

(e) the land, if any, acquired earlier and remained unutilised, is used for such public purpose and make recommendations in respect thereof.

(2) The appropriate Government shall examine the report of the Collector if any and the report of the Expert Group on the Social Impact Assessment study and after considering all the reports, recommend such area for acquisition which would ensure minimum displacement of people, minimum disturbance to the infrastructure, ecology and minimum adverse impact on the individuals affected.

(3) The decision of the appropriate Government shall be made available in the local language to the Panchayat, Municipality or Municipal Corporation, as the case may be, and the offices of the District Collector, the Sub-Divisional Magistrate and the Tehsil, and shall be published in the affected areas, in such manner as may be prescribed, and uploaded on the website of the appropriate Government:

Provided that where land is sought to be acquired for the purposes as specified in sub-section (2) of section 2, the appropriate Government shall also ascertain as to whether the prior consent of the affected families as required under the proviso to sub-section (2) of section 2, has been obtained in the manner as may be prescribed.

9. Where land is proposed to be acquired invoking the urgency provisions under section 40, the appropriate Government may exempt undertaking of the Social Impact Assessment study.

Examination of proposals for land acquisition and Social Impact Assessment report by appropriate Government.

Exemption from Social Impact Assessment.

CHAPTER III

SPECIAL PROVISION TO SAFEGUARD FOOD SECURITY

Special provision to safeguard food security.

10. (1) Save as otherwise provided in sub-section (2), no irrigated multi-cropped land shall be acquired under this Act.

(2) Such land may be acquired subject to the condition that it is being done under exceptional circumstances, as a demonstrable last resort, where the acquisition of the land referred to in sub-section (1) shall, in aggregate for all projects in a district or State, in no case exceed such limits as may be notified by the appropriate Government considering the relevant State specific factors and circumstances.

(3) Whenever multi-crop irrigated land is acquired under sub-section (2), an equivalent area of culturable wasteland shall be developed for agricultural purposes or an amount equivalent to the value of the land acquired shall be deposited with the appropriate Government for investment in agriculture for enhancing food-security.

(4) In a case not falling under sub-section (1), the acquisition of the agricultural land in aggregate for all projects in a district or State, shall in no case exceed such limits of the total net sown area of that district or State, as may be notified by the appropriate Government:

Provided that the provisions of this section shall not apply in the case of projects that are linear in nature such as those relating to railways, highways, major district roads, irrigation canals, power lines and the like.

CHAPTER IV

NOTIFICATION AND ACQUISITION

Publication of preliminary notification and power of officers thereupon.

11. (1) Whenever, it appears to the appropriate Government that land in any area is required or likely to be required for any public purpose, a notification (hereinafter referred to as preliminary notification) to that effect along with details of the land to be acquired in rural and urban areas shall be published in the following manner, namely:—

(a) in the Official Gazette;

(b) in two daily newspapers circulating in the locality of such area of which one shall be in the regional language;

(c) in the local language in the Panchayat, Municipality or Municipal Corporation, as the case may be and in the offices of the District Collector, the Sub-divisional Magistrate and the Tehsil;

(d) uploaded on the website of the appropriate Government;

(e) in the affected areas, in such manner as may be prescribed.

(2) Immediately after issuance of the notification under sub-section (1), the concerned Gram Sabha or Sabhas at the village level, municipalities in case of municipal areas and the Autonomous Councils in case of the areas referred to in the Sixth Schedule to the Constitution, shall be informed of the contents of the notification issued under the said sub-section in all cases of land acquisition at a meeting called especially for this purpose.

(3) The notification issued under sub-section (1) shall also contain a statement on the nature of the public purpose involved, reasons necessitating the displacement of affected persons, summary of the Social Impact Assessment Report and particulars of the Administrator appointed for the purposes of rehabilitation and resettlement under section 43.

(4) No person shall make any transaction or cause any transaction of land specified in the preliminary notification or create any encumbrances on such land from the date of publication of such notification till such time as the proceedings under this Chapter are completed:

Provided that the Collector may, on the application made by the owner of the land so notified, exempt in special circumstances to be recorded in writing, such owner from the operation of this sub-section:

Provided further that any loss or injury suffered by any person due to his wilful violation of this provision shall not be made up by the Collector.

(5) After issuance of notice under sub-section (1), the Collector shall, before the issue of a declaration under section 19, undertake and complete the exercise of updating of land records as prescribed within a period of two months.

12. For the purposes of enabling the appropriate Government to determine the extent of land to be acquired, it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,—

Preliminary survey of land and power of officers to carry out survey.

(a) to enter upon and survey and take levels of any land in such locality;

(b) to dig or bore into the sub-soil;

(c) to do all other acts necessary to ascertain whether the land is adapted for such purpose;

(d) to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon; and

(e) to mark such levels, boundaries and line by placing marks and cutting trenches and where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no act under clauses (a) to (e) in respect of land shall be conducted in the absence of the owner of the land or in the absence of any person authorised in writing by the owner:

Provided further that the acts specified under the first proviso may be undertaken in the absence of the owner, if the owner has been afforded a reasonable opportunity to be present during the survey, by giving a notice of at least sixty days prior to such survey:

Provided also that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

13. The officer so authorised under section 12 shall at the time of entry under section 12 pay or tender payment for any damage caused, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector or other chief revenue officer of the district, and such decision shall be final.

Payment for damage.

14. Where a preliminary notification under section 11 is not issued within twelve months from the date of appraisal of the Social Impact Assessment report submitted by the Expert Group under section 7, then, such report shall be deemed to have lapsed and a fresh Social Impact Assessment shall be required to be undertaken prior to acquisition proceedings under section 11:

Lapse of Social Impact Assessment report.

Provided that the appropriate Government, shall have the power to extend the period of twelve months, if in its opinion circumstances exist justifying the same:

Provided further that any such decision to extend the period shall be recorded in writing and the same shall be notified and be uploaded on the website of the authority concerned.

15. (1) Any person interested in any land which has been notified under sub-section (1) of section 11, as being required or likely to be required for a public purpose, may within sixty days from the date of the publication of the preliminary notification, object to—

Hearing of objections.

(a) the area and suitability of land proposed to be acquired;

(b) justification offered for public purpose;

(c) the findings of the Social Impact Assessment report.

(2) Every objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any person authorised by him in this behalf or by an Advocate and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under sub-section (1) of section 11, or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held by him along with a separate report giving therein the approximate cost of land acquisition, particulars as to the number of affected families likely to be resettled, for the decision of that Government.

(3) The decision of the appropriate Government on the objections made under sub-section (2) shall be final.

Preparation of
Rehabilitation
and Resettle-
ment Scheme
by the
Administrator.

16. (1) Upon the publication of the preliminary notification under sub-section (1) of section 11 by the Collector, the Administrator for Rehabilitation and Resettlement shall conduct a survey and undertake a census of the affected families, in such manner and within such time as may be prescribed, which shall include—

(a) particulars of lands and immovable properties being acquired of each affected family;

(b) livelihoods lost in respect of land losers and landless whose livelihoods are primarily dependent on the lands being acquired;

(c) a list of public utilities and Government buildings which are affected or likely to be affected, where resettlement of affected families is involved;

(d) details of the amenities and infrastructural facilities which are affected or likely to be affected, where resettlement of affected families is involved; and

(e) details of any common property resources being acquired.

(2) The Administrator shall, based on the survey and census under sub-section (1), prepare a draft Rehabilitation and Resettlement Scheme, as prescribed which shall include particulars of the rehabilitation and resettlement entitlements of each land owner and landless whose livelihoods are primarily dependent on the lands being acquired and where resettlement of affected families is involved—

(i) a list of Government buildings to be provided in the Resettlement Area;

(ii) details of the public amenities and infrastructural facilities which are to be provided in the Resettlement Area.

(3) The draft Rehabilitation and Resettlement scheme referred to in sub-section (2) shall include time limit for implementing Rehabilitation and Resettlement Scheme;

(4) The draft Rehabilitation and Resettlement scheme referred to in sub-section (2) shall be made known locally by wide publicity in the affected area and discussed in the concerned Gram Sabhas or Municipalities.

(5) A public hearing shall be conducted in such manner as may be prescribed, after giving adequate publicity about the date, time and venue for the public hearing at the affected area:

Provided that in case where an affected area involves more than one Gram Panchayat or Municipality, public hearings shall be conducted in every Gram Sabha and Municipality where more than twenty-five per cent. of land belonging to that Gram Sabha or Municipality is being acquired:

Provided further that the consultation with the Gram Sabha in Scheduled Areas shall be in accordance with the provisions of the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996.

(6) The Administrator shall, on completion of public hearing submit the draft Scheme for Rehabilitation and Resettlement along with a specific report on the claims and objections raised in the public hearing to the Collector.

17. (1) The Collector shall review the draft Scheme submitted under sub-section (6) of section 16 by the Administrator with the Rehabilitation and Resettlement Committee at the project level constituted under section 45;

Review of the Rehabilitation and Resettlement Scheme.

(2) The Collector shall submit the draft Rehabilitation and Resettlement Scheme with his suggestions to the Commissioner Rehabilitation and Resettlement for approval of the Scheme.

18. The Commissioner shall cause the approved Rehabilitation and Resettlement Scheme to be made available in the local language to the Panchayat, Municipality or Municipal Corporation, as the case may be, and the offices of the District Collector, the Sub-Divisional Magistrate and the Tehsil, and shall be published in the affected areas, in such manner as may be prescribed, and uploaded on the website of the appropriate Government.

Approved Rehabilitation and Resettlement Scheme to be made public.

19. (1) When the appropriate Government is satisfied, after considering the report, if any, made under sub-section (2) of section 15, that any particular land is needed for a public purpose, a declaration shall be made to that effect, along with a declaration of an area identified as the "resettlement area" for the purposes of rehabilitation and resettlement of the affected families, under the hand and seal of a Secretary to such Government or of any other officer duly authorised to certify its orders and different declarations may be made from time to time in respect of different parcels of any land covered by the same preliminary notification irrespective of whether one report or different reports has or have been made (wherever required).

Publication of declaration and summary of Rehabilitation and Resettlement.

(2) The Collector shall publish a summary of the Rehabilitation and Resettlement Scheme along with declaration referred to in sub-section (1):

Provided that no declaration under this sub-section shall be made unless the summary of the Rehabilitation and Resettlement Scheme is published along with such declaration:

Provided further that no declaration under this sub-section shall be made unless the Requiring Body deposits an amount, in full or part, as may be prescribed by the appropriate Government toward the cost of acquisition of the land:

Provided also that the Requiring Body shall deposit the amount promptly so as to enable the appropriate Government to publish the declaration within a period of twelve months from the date of the publication of preliminary notification under section 11.

(3) In projects where land is acquired in stages, the application for acquisition itself can specify different stages for the rehabilitation and resettlement, and all declarations shall be made according to the stages so specified.

(4) Every declaration referred to in sub-section (1) shall be published in the following manner, namely:—

(a) in the Official Gazette;

(b) in two daily newspapers being circulated in the locality, of such area of which one shall be in the regional language;

(c) in the local language in the Panchayat, Municipality or Municipal Corporation, as the case may be, and in the offices of the District Collector, the Sub-Divisional Magistrate and the Tehsil;

(d) uploaded on the website of the appropriate Government;

(e) in the affected areas, in such manner as may be prescribed.

(5) Every declaration referred to in sub-section (1) shall indicate,—

(a) the district or other territorial division in which the land is situated;

(b) the purpose for which it is needed, its approximate area; and

(c) where a plan shall have been made for the land, the place at which such plan may be inspected without any cost.

(6) The declaration referred to in sub-section (1) shall be conclusive evidence that the land is required for a public purpose and, after making such declaration, the appropriate Government may acquire the land in such manner as specified under this Act.

(7) Where no declaration is made under sub-section (1) within twelve months from the date of preliminary notification, then such notification shall be deemed to have been rescinded:

Provided that in computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded:

Provided further that the appropriate Government shall have the power to extend the period of twelve months, if in its opinion circumstances exist justifying the same:

Provided also that any such decision to extend the period shall be recorded in writing and the same shall be notified and be uploaded on the website of the authority concerned.

20. The Collector shall thereupon cause the land, unless it has been already marked out under section 12, to be marked out and measured, and if no plan has been made thereof, a plan to be made of the same.

Land to be marked out, measured and planned including marking of specific areas.

Notice to persons interested.

21. (1) The Collector shall publish the public notice on his website and cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensations and rehabilitation and resettlement for all interests in such land may be made to him.

(2) The public notice referred to in sub-section (1) shall state the particulars of the land so needed, and require all persons interested in the land to appear personally or by agent or advocate before the Collector at a time and place mentioned in the public notice not being less than thirty days and not more than six months after the date of publication of the notice, and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, their claims to rehabilitation and resettlement along with their objections, if any, to the measurements made under section 20.

(3) The Collector may in any case require such statement referred to in sub-section (2) to be made in writing and signed by the party or his agent.

(4) The Collector shall also serve notice to the same effect on the occupier, if any, of such land and on all such persons known or believed to be interested therein, be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situated.

(5) In case any person so interested resides elsewhere, and has no such agent, the Collector shall ensure that the notice shall be sent to him by post in letter addressed to him at his last known residence, address of place or business and also publish the same in at least two national daily newspapers and also on his website.

Power to require and enforce the making of statements as to names and interests.

22. (1) The Collector may also require any such person to make or deliver to him, at a time and place mentioned (such time not being less than thirty days after the date of the requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits, if any, received or receivable on account thereof for three years next preceding the date of the statement.

45 of 1860.

(2) Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

23. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 21, to the measurements made under section 20, and into the value of the land at the date of the publication of the notification, and into the respective interests of the persons claiming the compensation and rehabilitation and resettlement, shall make an award under his hand of—

Enquiry and land acquisition award by Collector.

(a) the true area of the land;

(b) the compensation as determined under section 27 along with Rehabilitation and Resettlement Award as determined under section 31 and which in his opinion should be allowed for the land; and

(c) the apportionment of the said compensation among all the persons known or believed to be interested in the land, or whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

24. (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894,—

Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

25. The Collector shall make an award within a period of twelve months from the date of publication of the declaration under section 19 and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Period within which an award shall be made.

Provided that the appropriate Government shall have the power to extend the period of twelve months if in its opinion, circumstances exist justifying the same:

Provided further that any such decision to extend the period shall be recorded in writing and the same shall be notified and be uploaded on the website of the authority concerned.

26. (1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:—

Determination of market value of land by Collector.

(a) the market value, if any, specified in the Indian Stamp Act, 1899 for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or

2 of 1899.

(b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or

(c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects,

whichever is higher:

Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.

Explanation 1.—The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2.—For determining the average sale price referred to in *Explanation 1*, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3.—While determining the market value under this section and the average sale price referred to in *Explanation 1* or *Explanation 2*, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4.—While determining the market value under this section and the average sale price referred to in *Explanation 1* or *Explanation 2*, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.

(2) The market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the First Schedule.

(3) Where the market value under sub-section (1) or sub-section (2) cannot be determined for the reason that—

(a) the land is situated in such area where the transactions in land are restricted by or under any other law for the time being in force in that area; or

(b) the registered sale deeds or agreements to sell as mentioned in clause (a) of sub-section (1) for similar land are not available for the immediately preceding three years; or

(c) the market value has not been specified under the Indian Stamp Act, 1899 by 2 of 1899. the appropriate authority,

the State Government concerned shall specify the floor price or minimum price per unit area of the said land based on the price calculated in the manner specified in sub-section (1) in respect of similar types of land situated in the immediate adjoining areas:

Provided that in a case where the Requiring Body offers its shares to the owners of the lands (whose lands have been acquired) as a part compensation, for acquisition of land, such shares in no case shall exceed twenty-five per cent. of the value so calculated under sub-section (1) or sub-section (2) or sub-section (3) as the case may be:

Provided further that the Requiring Body shall in no case compel any owner of the land (whose land has been acquired) to take its shares, the value of which is deductible in the value of the land calculated under sub-section (1):

Provided also that the Collector shall, before initiation of any land acquisition proceedings in any area, take all necessary steps to revise and update the market value of the land on the basis of the prevalent market rate in that area:

Provided also that the appropriate Government shall ensure that the market value determined for acquisition of any land or property of an educational institution established

and administered by a religious or linguistic minority shall be such as would not restrict or abrogate the right to establish and administer educational institutions of their choice.

27. The Collector having determined the market value of the land to be acquired shall calculate the total amount of compensation to be paid to the land owner (whose land has been acquired) by including all assets attached to the land.

Determination of amount of compensation.

28. In determining the amount of compensation to be awarded for land acquired under this Act, the Collector shall take into consideration—

Parameters to be considered by Collector in determination of award.

firstly, the market value as determined under section 26 and the award amount in accordance with the First and Second Schedules;

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops and trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

sixthly, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 19 and the time of the Collector's taking possession of the land; and

seventhly, any other ground which may be in the interest of equity, justice and beneficial to the affected families.

29. (1) The Collector in determining the market value of the building and other immovable property or assets attached to the land or building which are to be acquired, use the services of a competent engineer or any other specialist in the relevant field, as may be considered necessary by him.

Determination of value of things attached to land or building.

(2) The Collector for the purpose of determining the value of trees and plants attached to the land acquired, use the services of experienced persons in the field of agriculture, forestry, horticulture, sericulture, or any other field, as may be considered necessary by him.

(3) The Collector for the purpose of assessing the value of the standing crops damaged during the process of land acquisition, may use the services of experienced persons in the field of agriculture as may be considered necessary by him.

30. (1) The Collector having determined the total compensation to be paid, shall, to arrive at the final award, impose a "Solatium" amount equivalent to one hundred per cent. of the compensation amount.

Award of solatium.

Explanation.—For the removal of doubts it is hereby declared that solatium amount shall be in addition to the compensation payable to any person whose land has been acquired.

(2) The Collector shall issue individual awards detailing the particulars of compensation payable and the details of payment of the compensation as specified in the First Schedule.

(3) In addition to the market value of the land provided under section 26, the Collector shall, in every case, award an amount calculated at the rate of twelve per cent. per annum on such market value for the period commencing on and from the date of the publication of the notification of the Social Impact Assessment study under sub-section (2) of section 4, in respect of such land, till the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

CHAPTER V

REHABILITATION AND RESETTLEMENT AWARD

Rehabilitation and Resettlement Award for affected families by Collector.

31.(1) The Collector shall pass Rehabilitation and Resettlement Awards for each affected family in terms of the entitlements provided in the Second Schedule.

(2) The Rehabilitation and Resettlement Award shall include all of the following, namely:—

- (a) rehabilitation and resettlement amount payable to the family;
- (b) bank account number of the person to which the rehabilitation and resettlement award amount is to be transferred;
- (c) particulars of house site and house to be allotted, in case of displaced families;
- (d) particulars of land allotted to the displaced families;
- (e) particulars of one time subsistence allowance and transportation allowance in case of displaced families;
- (f) particulars of payment for cattle shed and petty shops;
- (g) particulars of one-time amount to artisans and small traders;
- (h) details of mandatory employment to be provided to the members of the affected families;
- (i) particulars of any fishing rights that may be involved;
- (j) particulars of annuity and other entitlements to be provided;
- (k) particulars of special provisions for the Scheduled Castes and the Scheduled Tribes to be provided:

Provided that in case any of the matters specified under clauses (a) to (k) are not applicable to any affected family the same shall be indicated as "not applicable":

Provided further that the appropriate Government may, by notification increase the rate of rehabilitation and resettlement amount payable to the affected families, taking into account the rise in the price index.

Provision of infrastructural amenities in resettlement area.

32. In every resettlement area as defined under this Act, the Collector shall ensure the provision of all infrastructural facilities and basic minimum amenities specified in the Third Schedule.

Corrections to awards by Collector.

33. (1) The Collector may at any time, but not later than six months from the date of award or where he has been required under the provisions of this Act to make a reference to the Authority under section 64, before the making of such reference, by order, correct any clerical or arithmetical mistakes in either of the awards or errors arising therein either on his own motion or on the application of any person interested or local authority:

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making representation in the matter.

(2) The Collector shall give immediate notice of any correction made in the award so corrected to all the persons interested.

(3) Where any excess amount is proved to have been paid to any person as a result of the correction made under sub-section (1), the excess amount so paid shall be liable to be refunded and in the case of any default or refusal to pay, the same may be recovered, as prescribed by the appropriate Government.

34. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him.

Adjournment of enquiry.

35. For the purpose of enquiries under this Act, the Collector shall have powers to summon and enforce the attendance of witnesses, including the parties interested of any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure, 1908.

Power to summon and enforce attendance of witnesses and production of documents.

5 of 1908.

36. The appropriate Government may at any time before the award is made by the Collector under section 30 call for any record of any proceedings (whether by way of inquiry or otherwise) for the purpose of satisfying itself as to the legality or propriety of any findings or order passed or as to the regularity of such proceedings and may pass such order or issue such direction in relation thereto as it may think fit:

Power to call for records, etc.

Provided that the appropriate Government shall not pass or issue any order or direction prejudicial to any person without affording such person a reasonable opportunity of being heard.

37. (1) The awards shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested, whether they have respectively appeared before the Collector or not, of the true area and market value of the land and the assets attached thereto, solatium so determined and the apportionment of the compensation among the persons interested.

Awards of Collector when to be final.

(2) The Collector shall give immediate notice of his awards to such of the persons interested who are not present personally or through their representatives when the awards are made.

(3) The Collector shall keep open to the public and display a summary of the entire proceedings undertaken in a case of acquisition of land including the amount of compensation awarded to each individual along with details of the land finally acquired under this Act on the website created for this purpose.

38. (1) The Collector shall take possession of land after ensuring that full payment of compensation as well as rehabilitation and resettlement entitlements are paid or tendered to the entitled persons within a period of three months for the compensation and a period of six months for the monetary part of rehabilitation and resettlement entitlements listed in the Second Schedule commencing from the date of the award made under section 30:

Power to take possession of land to be acquired.

Provided that the components of the Rehabilitation and Resettlement Package in the Second and Third Schedules that relate to infrastructural entitlements shall be provided within a period of eighteen months from the date of the award:

Provided further that in case of acquisition of land for irrigation or hydel project, being a public purpose, the rehabilitation and resettlement shall be completed six months prior to submergence of the lands acquired.

(2) The Collector shall be responsible for ensuring that the rehabilitation and resettlement process is completed in all its aspects before displacing the affected families.

39. The Collector shall, as far as possible, not displace any family which has already been displaced by the appropriate Government for the purpose of acquisition under the provisions of this Act, and if so displaced, shall pay an additional compensation equivalent to that of the compensation determined under this Act for the second or successive displacements.

Additional compensation in case of multiple displacements.

40. (1) In cases of urgency, whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of thirty days from the publication of the notice mentioned in section 21, take possession of any land needed for a public purpose and such land shall thereupon vest absolutely in the Government, free from all encumbrances.

Special powers in case of urgency to acquire land in certain cases

(2) The powers of the appropriate Government under sub-section (1) shall be restricted to the minimum area required for the defence of India or national security or for any emergencies arising out of natural calamities or any other emergency with the approval of Parliament:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours notice of his intention to do so, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) Before taking possession of any land under sub-section (1) or sub-section (2), the Collector shall tender payment of eighty per cent. of the compensation for such land as estimated by him to the person interested entitled thereto.

(4) In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section (1), sub-section (2) or sub-section (3) are applicable, the appropriate Government may direct that any or all of the provisions of Chapter II to Chapter VI shall not apply, and, if it does so direct, a declaration may be made under section 19 in respect of the land at any time after the date of the publication of the preliminary notification under sub-section (1) of section 11.

(5) An additional compensation of seventy-five per cent. of the total compensation as determined under section 27, shall be paid by the Collector in respect of land and property for acquisition of which proceedings have been initiated under sub-section (1) of this section:

Provided that no additional compensation will be required to be paid in case the project is one that affects the sovereignty and integrity of India, the security and strategic interests of the State or relations with foreign States.

Special
provisions for
Scheduled
Castes and
Scheduled
Tribes.

41. (1) As far as possible, no acquisition of land shall be made in the Scheduled Areas.

(2) Where such acquisition does take place it shall be done only as a demonstrable last resort.

(3) In case of acquisition or alienation of any land in the Scheduled Areas, the prior consent of the concerned Gram Sabha or the Panchayats or the autonomous District Councils, at the appropriate level in Scheduled Areas under the Fifth Schedule to the Constitution, as the case may be, shall be obtained, in all cases of land acquisition in such areas, including acquisition in case of urgency, before issue of a notification under this Act, or any other Central Act or a State Act for the time being in force:

Provided that the consent of the Panchayats or the Autonomous Districts Councils shall be obtained in cases where the Gram Sabha does not exist or has not been constituted.

(4) In case of a project involving land acquisition on behalf of a Requiring Body which involves involuntary displacement of the Scheduled Castes or the Scheduled Tribes families, a Development Plan shall be prepared, in such form as may be prescribed, laying down the details of procedure for settling land rights due, but not settled and restoring titles of the Scheduled Tribes as well as the Scheduled Castes on the alienated land by undertaking a special drive together with land acquisition.

(5) The Development Plan shall also contain a programme for development of alternate fuel, fodder and non-timber forest produce resources on non-forest lands within a period of five years, sufficient to meet the requirements of tribal communities as well as the Scheduled Castes.

(6) In case of land being acquired from members of the Scheduled Castes or the Scheduled Tribes, at least one-third of the compensation amount due shall be paid to the affected families initially as first instalment and the rest shall be paid after taking over of the possession of the land.

(7) The affected families of the Scheduled Tribes shall be resettled preferably in the same Scheduled Area in a compact block so that they can retain their ethnic, linguistic and cultural identity.

(8) The resettlement areas predominantly inhabited by the Scheduled Castes and the Scheduled Tribes shall get land, to such extent as may be decided by the appropriate Government free of cost for community and social gatherings.

(9) Any alienation of tribal lands or lands belonging to members of the Scheduled Castes in disregard of the laws and regulations for the time being in force shall be treated as null and void, and in the case of acquisition of such lands, the rehabilitation and resettlement benefits shall be made available to the original tribal land owners or land owners belonging to the Scheduled Castes.

(10) The affected Scheduled Tribes, other traditional forest dwellers and the Scheduled Castes having fishing rights in a river or pond or dam in the affected area shall be given fishing rights in the reservoir area of the irrigation or hydel projects.

(11) Where the affected families belonging to the Scheduled Castes and the Scheduled Tribes are relocated outside of the district, then, they shall be paid an additional twenty-five per cent. rehabilitation and resettlement benefits to which they are entitled in monetary terms along with a one-time entitlement of fifty thousand rupees.

42. (1) All benefits, including the reservation benefits available to the Scheduled Tribes and the Scheduled Castes in the affected areas shall continue in the resettlement area.

Reservation
and other
benefits.

(2) Whenever the affected families belonging to the Scheduled Tribes who are residing in the Scheduled Areas referred to in the Fifth Schedule or the tribal areas referred to in the Sixth Schedule to the Constitution are relocated outside those areas, then, all the statutory safeguards, entitlements and benefits being enjoyed by them under this Act shall be extended to the area to which they are resettled regardless of whether the resettlement area is a Scheduled Area referred to in the said Fifth Schedule, or a tribal area referred to in the said Sixth Schedule, or not.

2 of 2007.

(3) Where the community rights have been settled under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the same shall be quantified in monetary amount and be paid to the individual concerned who has been displaced due to the acquisition of land in proportion with his share in such community rights.

CHAPTER VI

PROCEDURE AND MANNER OF REHABILITATION AND RESETTLEMENT

43. (1) Where the appropriate Government is satisfied that there is likely to be involuntary displacement of persons due to acquisition of land, then, the State Government shall, by notification, appoint in respect of that project, an officer not below the rank of Joint Collector or Additional Collector or Deputy Collector or equivalent official of Revenue Department to be the Administrator for Rehabilitation and Resettlement.

Appointment
of
Administrator.

(2) The Administrator shall, with a view to enable him to function efficiently and to meet the special time-frame, be provided with such powers, duties and responsibilities as may be prescribed by the appropriate Government and provided with office infrastructure and be assisted by such officers and employees who shall be subordinate to him as the appropriate Government may decide.

(3) Subject to the superintendence, directions and control of the appropriate Government and the Commissioner for Rehabilitation and Resettlement, the formulation, execution and monitoring of the Rehabilitation and Resettlement Scheme shall vest in the Administrator.

44. (1) The State Government shall appoint an officer of the rank of Commissioner or Secretary of that Government for rehabilitation and resettlement of affected families under this Act, to be called the Commissioner for Rehabilitation and Resettlement.

Commissioner
for
rehabilitation
and
resettlement.

(2) The Commissioner shall be responsible for supervising the formulation of rehabilitation and resettlement schemes or plans and proper implementation of such schemes or plans.

(3) The Commissioner shall be responsible for the post-implementation social audit in consultation with the Gram Sabha in rural areas and municipality in urban areas.

Rehabilitation and resettlement committee at project level.

45. (1) Where land proposed to be acquired is equal to or more than one hundred acres, the appropriate Government shall constitute a Committee under the chairmanship of the Collector to be called the Rehabilitation and Resettlement Committee, to monitor and review the progress of implementation of the Rehabilitation and Resettlement scheme and to carry out post-implementation social audits in consultation with the Gram Sabha in rural areas and municipality in urban areas.

(2) The Rehabilitation and Resettlement Committee shall include, apart from officers of the appropriate Government, the following members, namely:—

- (a) a representative of women residing in the affected area;
- (b) a representative each of the Scheduled Castes and the Scheduled Tribes residing in the affected area;
- (c) a representative of a voluntary organisation working in the area;
- (d) a representative of a nationalised bank;
- (e) the Land Acquisition Officer of the project;
- (f) the Chairpersons of the panchayats or municipalities located in the affected area or their nominees;
- (g) the Chairperson of the District Planning Committee or his nominee;
- (h) the Member of Parliament and Member of the Legislative Assembly of the concerned area or their nominees;
- (i) a representative of the Requiring Body; and
- (j) Administrator for Rehabilitation and Resettlement as the Member-Convenor.

(3) The procedure regulating the discharge of the process given in this section and other matters connected thereto of the Rehabilitation and Resettlement Committee shall be such as may be prescribed by the appropriate Government.

Provisions relating to rehabilitation and resettlement to apply in case of certain persons other than specified persons.

46. (1) Where any person other than a specified person is purchasing land through private negotiations for an area equal to or more than such limits, as may be notified by the appropriate Government, considering the relevant State specific factors and circumstances, for which the payment of Rehabilitation and Resettlement Costs under this Act is required, he shall file an application with the District Collector notifying him of—

- (a) intent to purchase;
- (b) purpose for which such purchase is being made;
- (c) particulars of lands to be purchased.

(2) It shall be the duty of the Collector to refer the matter to the Commissioner for the satisfaction of all relevant provisions under this Act related to rehabilitation and resettlement.

(3) Based upon the Rehabilitation and Resettlement Scheme approved by the Commissioner as per the provisions of this Act, the Collector shall pass individual awards covering Rehabilitation and Resettlement entitlements as per the provisions of this Act.

(4) No land use change shall be permitted if rehabilitation and resettlement is not complied with in full.

(5) Any purchase of land by a person other than specified persons without complying with the provisions of Rehabilitation and Resettlement Scheme shall be void *ab initio*:

Provided that the appropriate Government may provide for rehabilitation and resettlement provisions on sale or purchase of land in its State and shall also fix the limits or ceiling for the said purpose.

(6) If any land has been purchased through private negotiations by a person on or after the 5th day of September, 2011, which is more than such limits referred to in sub-section (1) and, if the same land is acquired within three years from the date of commencement of this Act, then, forty per cent. of the compensation paid for such land acquired shall be shared with the original land owners.

Explanation.—For the purpose of this section, the expression—

(a) "original land owner" refers to the owner of the land as on the 5th day of September, 2011;

(b) "specified persons" includes any person other than—

(i) appropriate Government;

(ii) Government company;

(iii) association of persons or trust or society as registered under the Societies Registration Act, 1860, wholly or partially aided by the appropriate Government or controlled by the appropriate Government.

21 of 1860.

47. Where the Collector is of the view that the obligations of the Requiring Body with regard to rehabilitation and resettlement can be quantified into monetary amount, he shall allow the payment of such amount into an account in complete satisfaction of such obligations, which shall be administered by the Administrator appointed under section 43, under the supervision of the Collector.

Quantification and deposit of rehabilitation and resettlement amount.

CHAPTER VII

NATIONAL MONITORING COMMITTEE FOR REHABILITATION AND RESETTLEMENT

48. (1) The Central Government may, whenever necessary, for national or inter-State projects, constitute a National Monitoring Committee for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans under this Act.

Establishment of National Monitoring Committee for rehabilitation and resettlement.

(2) The Committee may, besides having representation of the concerned Ministries and Departments of the Central and State Governments, associate with it eminent experts from the relevant fields.

(3) The procedures to be followed by the Committee and the allowances payable to the experts shall be such as may be prescribed.

(4) The Central Government shall provide officers and other employees to the Committee necessary for its efficient functioning.

49. The States and Union territories shall provide all the relevant information on the matters covered under this Act, to the National Monitoring Committee in a regular and timely manner, and also as and when required.

Reporting requirements.

50. (1) The State Government shall constitute a State Monitoring Committee for reviewing and monitoring the implementation of rehabilitation and resettlement schemes or plans under this Act.

Establishment of State Monitoring Committee for rehabilitation and resettlement.

(2) The Committee may, besides having representatives of the concerned Ministries and Departments of the State Government, associate with it eminent experts from the relevant fields.

(3) The procedures to be followed by the Committee and the allowances payable to the experts shall be such as may be prescribed by the State.

(4) The State Government shall provide such officers and other employees to the Committee as may be necessary for its efficient functioning.

CHAPTER VIII

ESTABLISHMENT OF LAND ACQUISITION, REHABILITATION AND RESETTLEMENT AUTHORITY

Establishment
of Land
Acquisition
Rehabilitation
and
Resettlement
Authority.

51. (1) The appropriate Government shall, for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation, rehabilitation and resettlement, establish, by notification, one or more Authorities to be known as "the Land Acquisition, Rehabilitation and Resettlement Authority" to exercise jurisdiction, powers and authority conferred on it by or under this Act.

(2) The appropriate Government shall also specify in the notification referred to in sub-section (1) the areas within which the Authority may exercise jurisdiction for entertaining and deciding the references made to it under section 64 or applications made by the applicant under second proviso to sub-section (1) of section 64.

Composition
of Authority.

52. (1) The Authority shall consist of one person only (hereinafter referred to as the Presiding Officer) to be appointed, by notification, by the appropriate Government.

(2) Notwithstanding anything contained in sub-section (1), the appropriate Government may authorise the Presiding Officer of one Authority to discharge also the functions of the Presiding Officer of another Authority.

Qualifications
for
appointment
as Presiding
Officer.

53. (1) A person shall not be qualified for appointment as the Presiding Officer of an Authority unless,—

(a) he is or has been a District Judge; or

(b) he is a qualified legal practitioner for not less than seven years.

(2) A Presiding Officer shall be appointed by the appropriate Government in consultation with the Chief Justice of a High Court in whose jurisdiction the Authority is proposed to be established.

Terms of
office of
Presiding
Officer.

54. The Presiding Officer of an Authority shall hold office for a term of three years from the date on which he enters upon his office or until he attains the age of sixty-five years, whichever is earlier.

Staff of
Authority.

55. (1) The appropriate Government shall provide the Authority with a Registrar and such other officers and employees as that Government may think fit.

(2) The Registrar and other officers and employees of an Authority shall discharge their functions under the general superintendence of the Presiding Officer.

(3) The salaries and allowances and other conditions of service of the Registrar and other officers and employees of an Authority shall be such as may be prescribed.

Salary and
allowances and
other terms
and conditions
of service of
Presiding
Officers.

56. The salary and allowances payable to and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Presiding Officer of an Authority, shall be such as may be prescribed:

Provided that neither the salary and allowances nor the other terms and conditions of service of the said Presiding Officers shall be varied to their disadvantage after appointment.

Filling up of
vacancies.

57. If, for any reason other than temporary absence, any vacancy occurs in the office of the Presiding Officer of an Authority then the appropriate Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Authority from the stage at which the vacancy is filled.

58. (1) The Presiding Officer of an Authority may, by notice in writing under his hand addressed to the appropriate Government, resign his office:

Resignation and removal.

Provided that the Presiding Officer shall, unless he is permitted by the appropriate Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

(2) The Presiding Officer of an Authority shall not be removed from his office except by an order made by the appropriate Government on the ground of proven misbehaviour or incapacity after inquiry in the case of the Presiding Officer of an Authority made by a Judge of a High Court in which the Presiding Officer concerned has been informed of the charges against him and given a reasonable opportunity of being heard in respect of these charges.

(3) The appropriate Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the aforesaid Presiding Officer.

59. No order of the appropriate Government appointing any person as the Presiding Officer of an Authority shall be called in question in any manner, and no act or proceeding before an Authority shall be called in question in any manner on the ground merely of any defect in the constitution of an Authority.

Orders constituting Authority to be final and not to invalidate its proceedings.

60. (1) The Authority shall, for the purposes of its functions under this Act, shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

Powers of Authority and procedure before it.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) discovery and production of any document or other material object producible as evidence;

(c) receiving evidence on affidavits;

(d) requisitioning of any public record;

(e) issuing commission for the examination of witnesses;

(f) reviewing its decisions, directions and orders;

(g) any other matter which may be prescribed.

(2) The Authority shall have original jurisdiction to adjudicate upon every reference made to it under section 64.

(3) The Authority shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Authority shall have the power to regulate its own procedure.

(4) The Authority shall, after receiving reference under section 64 and after giving notice of such reference to all the parties concerned and after affording opportunity of hearing to all parties, dispose of such reference within a period of six months from the date of receipt of such reference and make an award accordingly.

(5) The Authority shall arrange to deliver copies of the award to the parties concerned within a period of fifteen days from the date of such award.

61. All proceedings before the Authority shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Authority shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

Proceedings before Authority to be judicial proceedings.

62. The Member and officers of the Authority shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members and officers of Authority to be public servants.

Jurisdiction of
civil courts
barred.

63. No civil court (other than High Court under article 226 or article 227 of the Constitution or the Supreme Court) shall have jurisdiction to entertain any dispute relating to land acquisition in respect of which the Collector or the Authority is empowered by or under this Act, and no injunction shall be granted by any court in respect of any such matter.

Reference to
Authority.

64. (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.

Collector's
statement to
Authority.

65. (1) In making the reference, the Collector shall state for the information of the Authority, in writing under his hand—

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land;

(c) the amount awarded for damages and paid or tendered under section 13, and the amount of compensation awarded under the provisions of this Act;

(d) the amount paid or deposited under any other provisions of this Act; and

(e) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) The statement under sub-section (1) shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the persons interested respectively.

Service of
notice by
Authority.

66. The Authority shall thereupon cause a notice specifying the day on which the Authority will proceed to determine the objection, and directing their appearance before the Authority on that day, to be served on the following persons, namely: —

(a) the applicant;

(b) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded; and

(c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector.

67. The scope of the enquiry in every such proceeding shall be restricted to a consideration of the interest of the persons affected by the objection. Restriction on scope of proceedings.

68. Every such proceeding shall take place in public, and all persons entitled to practice in any Civil Court in the State shall be entitled to appear, plead and act (as the case may be) in such proceeding. Proceedings to be in public.

69. (1) In determining the amount of compensation to be awarded for land acquired including the Rehabilitation and Resettlement entitlements, the Authority shall take into consideration whether the Collector has followed the parameters set out under section 26 to section 30 and the provisions under Chapter V of this Act. Determination of award by Authority.

(2) In addition to the market value of the land, as above provided, the Authority shall in every case award an amount calculated at the rate of twelve per cent. per annum on such market value for the period commencing on and from the date of the publication of the preliminary notification under section 11 in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation.— In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.

(3) In addition to the market value of the land as above provided, the Authority shall in every case award a solatium of one hundred per cent. over the total compensation amount.

70. (1) Every award under this Chapter shall be in writing signed by the Presiding Officer of the Authority, and shall specify the amount awarded under clause first of section 28, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts. Form of award.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of clause (2), and clause (9) of respectively, of section 2 of the Code of Civil Procedure, 1908.

5 of 1908.

71. (1) Every such award shall also state the amount of costs incurred in the proceeding under this Chapter, and by what persons and in what proportions they are to be paid. Costs.

(2) When the award of the Collector is not upheld, the cost shall ordinarily be paid by the Collector, unless the Authority concerned is of the opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs.

72. If the sum, which in the opinion of the Authority concerned, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Authority concerned may direct that the Collector shall pay interest on such excess at the rate of nine per cent. per annum from the date on which he took possession of the land to the date of payment of such excess into Authority: Collector may be directed to pay interest on excess compensation.

Provided that the award of the Authority concerned may also direct that where such excess or any part thereof is paid to the Authority after the date or expiry of a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent. per annum shall be payable from the date of expiry of the said period of one year on the amount of such excess or part thereof which has not been paid into Authority before the date of such expiry.

Re-determi-
nation of
amount of
compensation
on the basis of
the award of
the Authority.

73. (1) Where in an award under this Chapter, the Authority concerned allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under section 23, the persons interested in all the other land covered by the same preliminary notification under section 11, and who are also aggrieved by the award of the Collector may, notwithstanding that they had not made an application to the Collector, by written application to the Collector within three months from the date of the award of the Authority concerned require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the Authority:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority concerned.

Appeal to
High Court.

74. (1) The Requiring Body or any person aggrieved by the Award passed by an Authority under section 69 may file an appeal to the High Court within sixty days from the date of Award:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

(2) Every appeal referred to under sub-section (1) shall be heard as expeditiously as possible and endeavour shall be made to dispose of such appeal within six months from the date on which the appeal is presented to the High Court.

Explanation.—For the purposes of this section, “High Court” means the High Court within the jurisdiction of which the land acquired or proposed to be acquired is situated.

CHAPTER IX

APPORTIONMENT OF COMPENSATION

Particulars of
apportionment
to be
specified.

75. When there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to
apportionment.

76. When the amount of compensation has been settled, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such disputes to the Authority.

CHAPTER X

PAYMENT

Payment of
compensation
or deposit of
same in
Authority.

77. (1) On making an award under section 30, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them by depositing the amount in their bank accounts unless prevented by someone or more of the contingencies mentioned in sub-section (2).

(2) If the person entitled to compensation shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of

the compensation in the Authority to which a reference under section 64 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided further that no person who has received the amount otherwise than under protest shall be entitled to make any application under sub-section (1) of section 64:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

78. (1) If any money is deposited in the Authority concerned under sub-section (2) of section 77 and it appears that the land in respect whereof the same was awarded belonged to any person who had no power to alienate the same, the Authority concerned shall—

Investment of money deposited in respect of lands belonging to person incompetent to alienate.

(a) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held; or

(b) if such purchase cannot be effected forthwith, then in such Government of other approved securities as the Authority concerned shall think fit,

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall remain so deposited and invested until the same be applied—

(i) in the purchase of such other lands as aforesaid; or

(ii) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of money deposited to which this section applies the Authority concerned shall order the costs of the following matters, including therein all reasonable charge and expenses incident thereon, to be paid by the Collector, namely:—

(a) the costs of such investments as aforesaid;

(b) the costs of the orders for the payment of the interest or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of the Authority concerned of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

79. When any money shall have been deposited in the Authority concerned under this Act for any cause other than the causes mentioned in section 78, the Authority may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and paid in such manner as it may consider will give the parties interested therein the same benefit from it as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Investment of money deposited in other cases.

80. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of nine per cent. per annum from the time of so taking possession until it shall have been so paid or deposited:

Payment of interest.

Provided that if such compensation or any part thereof is not paid or deposited within a period of one year from the date on which possession is taken, interest at the rate of fifteen per cent. per annum shall be payable from the date or expiry of the said period of one year on the amount of compensation or part thereof which has not been paid or deposited before the date of such expiry.

CHAPTER XI

TEMPORARY OCCUPATION OF LAND

Temporary occupation of waste or arable land, procedure when difference as to compensation exists.

81. (1) Whenever it appears to the appropriate Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, the appropriate Government may direct the Collector to procure the occupation and use of the same for such terms as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the person interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Authority.

Power to enter and take possession and compensation on restoration.

82. (1) On payment of such compensation, or on executing such agreement, or on making a reference under section 64, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the appropriate Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose.

Difference as to condition of land.

83. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Authority concerned.

CHAPTER XII

OFFENCES AND PENALTIES

Punishment for false information, *mala fide* action, etc.

84. (1) If a person, in connection with a requirement or direction under this Act, provides any information that is false or misleading, or produces any false document, he shall be liable to be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one lakh rupees, or with both.

(2) Any rehabilitation and resettlement benefit availed of by making a false claim or through fraudulent means shall be liable to be recovered by the appropriate Government in the manner as may be prescribed.

(3) Disciplinary proceedings may be drawn up by the disciplinary authority against a Government servant, who if proved to be guilty of a *mala fide* action in respect of any provision of this Act, shall be liable to such punishment including a fine as the disciplinary authority may decide.

Penalty for contravention of provisions of Act.

85. If any person contravenes any of the provisions relating to payment of compensation or rehabilitation and resettlement, every such person shall be liable to a punishment of six months which may extend to three years or with fine or with both.

Offences by companies.

86. (1) Where an offence under this Act has been committed by a company, every

person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals and a Requiring Body; and

(b) “director”, in relation to a firm, means a partner in the firm.

87. (1) Where an offence under this Act has been committed by any department of the Government, the head of the department, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by Government departments.

Provided that nothing contained in this section shall render any person liable to any punishment if such person proves that the offence was committed without his knowledge or that such person exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the head of the department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

88. No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall be competent to try any offence punishable under this Act.

Cognizance of offences by court.

2 of 1974.

89. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 every offence under this Act shall be deemed to be non-cognizable.

Offences to be non-cognizable.

90. No court shall take cognizance of any offence under this Act which is alleged to have been committed by a Requiring Body except on a complaint in writing made by the Collector or any other officer authorised by the appropriate Government or any member of the affected family.

Offences to be cognizable only on complaint filed by certain persons.

CHAPTER XIII

MISCELLANEOUS

91. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and if not a Magistrate, he shall apply to a Magistrate or to the Commissioner of Police, and such Magistrate or Commissioner, as the case may be, shall enforce the surrender of the land to the Collector.

Magistrate to enforce surrender.

92. (1) Save as otherwise provided in section 66, the service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice, by

Service of notice.

the officer therein mentioned, and, in the case of any other notice, by order of the Collector.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult member of his family residing with him; and, if no such adult member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and also publish the same in at least two national daily newspapers and also on his website.

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

93. (1) The appropriate Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whenever the appropriate Government withdraws from any such acquisition, the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

Acquisition of part of house or building.

94. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desires that the whole of such house, manufactory or building shall be so acquired:

Provided that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Authority concerned and shall not be taken possession of such land until after the question has been determined.

(2) In deciding on such a reference made under the proviso to sub-section (1), the Authority concerned shall have regard to the question whether the land proposed to be taken, is reasonably required for the full and unimpaired use of the house, manufactory or building.

(3) If, in the case of any claim under this Act, by a person interested, on account of the severing of the land to be acquired from his other land, the appropriate Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(4) In the case of any acquisition of land so required no fresh declaration or other proceedings under sections 11 to 19, (both inclusive) shall be necessary; but the Collector shall without delay furnish a copy of the order of the appropriate Government to the person interested, and shall thereafter proceed to make his award under section 23.

Acquisition of land at cost of a local authority or Requiring Body.

95. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Requiring Body, the charges of land incidental to such acquisition shall be defrayed from or by such fund or Requiring Body.

(2) In any proceeding held before a Collector or Authority concerned in such cases the local authority or Requiring Body concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Requiring Body shall be entitled to demand a reference to the Authority concerned under section 64.

96. No income tax or stamp duty shall be levied on any award or agreement made under this Act, except under section 46 and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Exemption from income-tax, stamp duty and fees.

16 of 1908.

97. In any proceeding under this Act, a certified copy of a document registered under the Registration Act, 1908, including a copy given under section 57 of that Act, may be accepted as evidence of the transaction recorded in such document.

Acceptance of certified copy as evidence.

98. No suit or other proceeding shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amendments.

Notice in case of suits for anything done in pursuance of Act.

99. No change from the purpose or related purposes for which the land is originally sought to be acquired shall be allowed:

No change of purpose to be allowed.

Provided that if the land acquired is rendered unusable for the purpose for which it was acquired due to a fundamental change because of any unforeseen circumstances, then the appropriate Government may use such land for any other public purpose.

100. No change of ownership without specific permission from the appropriate Government shall be allowed.

No change of ownership without permission to be allowed.

101. When any land acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government.

Return of unutilised land.

Explanation.—For the purpose of this section, "Land Bank" means a governmental entity that focuses on the conversion of Government owned vacant, abandoned, unutilised acquired lands and tax-delinquent properties into productive use.

102. Whenever the ownership of any land acquired under this Act is transferred to any person for a consideration, without any development having taken place on such land, forty per cent. of the appreciated land value shall be shared amongst the persons from whom the lands were acquired or their heirs, in proportion to the value at which the lands were acquired within a period of five years from the date of acquisition:

Difference in price of land when transferred for higher consideration to be shared.

Provided that benefit shall accrue only on the first sale or transfer that occurs after the conclusion of the acquisition proceedings.

103. The provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force.

Provisions to be in addition to existing laws.

104. Notwithstanding anything contained in this Act, the appropriate Government shall, wherever possible, be free to exercise the option of taking the land on lease, instead of acquisition, for any public purpose referred to in sub-section (1) of section 2.

Option of appropriate Government to lease.

Provisions of this Act not to apply in certain cases or to apply with certain modifications.

105. (1) Subject to sub-section (3), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule.

(2) Subject to sub-section (2) of section 106, the Central Government may, by notification, omit or add to any of the enactments specified in the Fourth Schedule.

(3) The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.

(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.

Power to amend Schedule.

106. (1) The Central Government may, by notification, amend or alter any of the Schedules to this Act, without in any way reducing the compensation or diluting the provisions of this Act relating to compensation or rehabilitation and resettlement.

(2) A copy of every notification proposed to be issued under sub-section (1), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament.

Power of State Legislatures to enact any law more beneficial to affected families.

107. Nothing in this Act shall prevent any State from enacting any law to enhance or add to the entitlements enumerated under this Act which confers higher compensation than payable under this Act or make provisions for rehabilitation and resettlement which is more beneficial than provided under this Act.

Option to affected families to avail better compensation and rehabilitation and resettlement.

108. (1) Where a State law or a policy framed by the Government of a State provides for a higher compensation than calculated under this Act for the acquisition of land, the affected persons or his family or member of his family may at their option opt to avail such higher compensation and rehabilitation and resettlement under such State law or such policy of the State.

(2) Where a State law or a policy framed by the Government of a State offers more beneficial rehabilitation and resettlement provisions under that Act or policy than under this Act, the affected persons or his family or member of his family may at his option opt to avail such rehabilitation and resettlement provisions under such State law or such policy of the State instead of under this Act.

Power of appropriate Government to make rules.

109. (1) Subject to the other provisions of this Act, the appropriate Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing, such rules may provide for all or any of the following matters, namely:—

(a) the process of obtaining the prior consent under the first proviso to sub-section (2) of section 2;

- (b) the limits of land in rural areas or urban areas under clause (a) of sub-section (3) of section 2;
- (c) the manner and the time limit for carrying out social impact assessment study under sub-section (1) of section 4;
- (d) the manner of preparing and publishing social impact assessment study reports under sub-section (1) of section 6;
- (e) the manner and time for conducting survey and undertaking census under sub-section (1) of section 16;
- (f) the manner of preparing draft Rehabilitation and Resettlement Scheme under sub-section (2) of section 16;
- (g) the manner of conducting public hearing under sub-section (5) of section 16;
- (h) the manner of depositing amount by the Requiring Body under second proviso to sub-section (2) of section 19;
- (i) the manner in which and the period within which any excess amount paid may be recovered under sub-section (3) of section 33;
- (j) the form in which the Development Plan shall be prepared under sub-section (4) of section 41;
- (k) the powers, duties and responsibilities of Administrator under sub-section (2) of section 43;
- (l) the procedure of Rehabilitation and Resettlement Committee under sub-section (3) of section 45;
- (m) the procedure to be followed by the Rehabilitation and Resettlement Committee and allowances to be paid to the experts under sub-section (3) of section 48;
- (n) the procedures to be followed by the State Monitoring Committee and the allowances payable to the experts under sub-section (3) of section 50;
- (o) the salaries and allowances and other conditions of service of the Registrar and other officers and employees of an Authority under sub-section (3) of section 55;
- (p) the salary and allowances payable to and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Presiding Officer of an Authority under section 56;
- (q) any other matter under clause (g) of sub-section (1) of section 60;
- (r) the manner of recovery of the rehabilitation and resettlement benefits, availed of by making false claim or through fraudulent means, under sub-section (2) of section 84;
- (s) the manner of returning the unutilised land by reversion under section 101;
- (t) manner of publication wherever the provisions of this Act provide for;
- (u) any other matter which is required to be or may be specified under this Act.

110. Every rule made by the Central Government under this Act shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such

Rules made by
Central
Government
to be laid
before
Parliament.

modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Rules made by State Government to be laid before State Legislature.

111. Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

Previous publication of rules made by Central and State Government.

112. The power to make rules by the Central or State Government under this Act shall be subject to the condition of the rules, being made after previous publication.

Power to remove difficulties.

113. (1) If any difficulty arises in giving effect to the provisions of this Part, the Central Government may, by order, make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such power shall be exercised after the expiry of a period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Repeal and saving.

114. (1) The Land Acquisition Act, 1894 is hereby repealed.

1 of 1894.

(2) Save as otherwise provided in this Act the repeal under sub-section (1) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeals.

10 of 1897.

THE FIRST SCHEDULE

[See section 30 (2)]

COMPENSATION FOR LAND OWNERS

The following components shall constitute the minimum compensation package to be given to those whose land is acquired and to tenants referred to in clause (c) of section 3 in a proportion to be decided by the appropriate Government.

Serial No.	Component of compensation package in respect of land acquired under the Act	Manner of determination of value	Date of determination of value
(1)	(2)	(3)	(4)
1.	Market value of land	To be determined as provided under section 26.	
2.	Factor by which the market value is to be multiplied in the case of rural areas	1.00 (One) to 2.00 (Two) based on the distance of project from urban area, as may be notified by the appropriate Government.	
3.	Factor by which the market value is to be multiplied in the case of urban areas	1 (One).	
4.	Value of assets attached to land or building	To be determined as provided under section 29.	
5.	Solatum	Equivalent to one hundred per cent. of the market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 for rural areas or serial number 3 for urban areas plus value of assets attached to land or building against serial number 4 under column (2).	
6.	Final award in rural areas	Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 2 plus value of assets attached to land or building mentioned against serial number 4 under column (2) plus solatium mentioned against serial number 5 under column (2).	
7.	Final award in urban areas	Market value of land mentioned against serial number 1 multiplied by the factor specified against serial number 3 plus value of assets attached to land or building	

(1)	(2)	(3)	(4)
		mentioned against serial number 4 under column (2) plus solatium mentioned against serial number 5 under column (2).	
8.	Other component, if any, to be included		

NOTE.—The date on which values mentioned under column (2) are determined should be indicated under column (4) against each serial number.

THE SECOND SCHEDULE

[See sections 31 (1), 38 (1) and 105 (3)]

ELEMENTS OF REHABILITATION AND RESETTLEMENT ENTITLEMENTS FOR ALL THE AFFECTED FAMILIES (BOTH LAND OWNERS AND THE FAMILIES WHOSE LIVELIHOOD IS PRIMARILY DEPENDENT ON LAND ACQUIRED) IN ADDITION TO THOSE PROVIDED IN THE FIRST SCHEDULE.

Serial No.	Elements of Rehabilitation and Resettlement Entitlements	Entitlement/provision	Whether provided or not (if provided, details to be given)
(1)	(2)	(3)	(4)
1.	Provision of housing units in case of displacement	<p>(1) If a house is lost in rural areas, a constructed house shall be provided as per the Indira Awas Yojana specifications. If a house is lost in urban areas, a constructed house shall be provided, which will be not less than 50 sq mts in plinth area.</p> <p>(2) The benefits listed above shall also be extended to any affected family which is without homestead land and which has been residing in the area continuously for a period of not less than three years preceding the date of notification of the affected area and which has been involuntarily displaced from such area:</p> <p>Provided that any such family in urban areas which opts not to take the house offered, shall get a one-time financial assistance for house construction, which shall not be less than one lakh fifty thousand rupees:</p> <p>Provided further that if any affected family in rural areas so prefers, the equivalent cost of the house may be offered in lieu of the constructed house:</p> <p>Provided also that no family affected by acquisition shall be given more than one house under the provisions of this Act.</p>	

(1)	(2)	(3)	(4)
		<p><i>Explanation.</i>—The houses in urban areas may, if necessary, be provided in multi-storied building complexes.</p>	
2.	Land for Land	<p>In the case of irrigation project, as far as possible and in lieu of compensation to be paid for land acquired, each affected family owning agricultural land in the affected area and whose land has been acquired or lost, or who has, as a consequence of the acquisition or loss of land, been reduced to the status of a marginal farmer or landless, shall be allotted, in the name of each person included in the records of rights with regard to the affected family, a minimum of one acre of land in the command area of the project for which the land is acquired:</p> <p>Provided that in every project those persons losing land and belonging to the Scheduled Castes or the Scheduled Tribes will be provided land equivalent to land acquired or two and a one-half acres, whichever is lower.</p>	
3.	Offer for Developed Land	<p>In case the land is acquired for urbanisation purposes, twenty per cent. of the developed land will be reserved and offered to land owning project affected families, in proportion to the area of their land acquired and at a price equal to the cost of acquisition and the cost of development:</p> <p>Provided that in case the land owning project affected family wishes to avail of this offer, an equivalent amount will be deducted from the land acquisition compensation package payable to it.</p>	
4.	Choice of Annuity or Employment	<p>The appropriate Government shall ensure that the affected families are provided with the following options:</p>	

(1)	(2)	(3)	(4)
		(a) where jobs are created through the project, after providing suitable training and skill development in the required field, make provision for employment at a rate not lower than the minimum wages provided for in any other law for the time being in force, to at least one member per affected family in the project or arrange for a job in such other project as may be required; or	
		(b) one time payment of five lakhs rupees per affected family; or	
		(c) annuity policies that shall pay not less than two thousand rupees per month per family for twenty years, with appropriate indexation to the Consumer Price Index for Agricultural Labourers.	
5.	Subsistence grant for displaced families for a period of one year	Each affected family which is displaced from the land acquired shall be given a monthly subsistence allowance equivalent to three thousand rupees per month for a period of one year from the date of award.	
		In addition to this amount, the Scheduled Castes and the Scheduled Tribes displaced from Scheduled Areas shall receive an amount equivalent to fifty thousand rupees.	
		In cases of displacement from the Scheduled Areas, as far as possible, the affected families shall be relocated in a similar ecological zone, so as to preserve the economic opportunities, language, culture and community life of the tribal communities.	
6.	Transportation cost for displaced families	Each affected family which is displaced shall get a one-time financial assistance of fifty thousand rupees as transportation cost for shifting of the family, building materials, belongings and cattle.	

(1)	(2)	(3)	(4)
7.	Cattle shed/petty shops cost	Each affected family having cattle or having a petty shop shall get one-time financial assistance of such amount as the appropriate Government may, by notification, specify subject to a minimum of twenty-five thousand rupees for construction of cattle shed or petty shop as the case may be.	
8.	One-time grant to artisan, small traders and certain others	Each affected family of an artisan, small trader or self-employed person or an affected family which owned non-agricultural land or commercial, industrial or institutional structure in the affected area, and which has been involuntarily displaced from the affected area due to land acquisition, shall get one-time financial assistance of such amount as the appropriate Government may, by notification, specify subject to a minimum of twenty-five thousand rupees.	
9.	Fishing rights	In cases of irrigation or hydel projects, the affected families may be allowed fishing rights in the reservoirs, in such manner as may be prescribed by the appropriate Government.	
10.	One-time Resettlement Allowance	Each affected family shall be given a one-time "Resettlement Allowance" of fifty thousand rupees only.	
11.	Stamp duty and registration fee	<p>(1) The stamp duty and other fees payable for registration of the land or house allotted to the affected families shall be borne by the Requiring Body.</p> <p>(2) The land for house allotted to the affected families shall be free from all encumbrances.</p> <p>(3) The land or house allotted may be in the joint names of wife and husband of the affected family.</p>	

THE THIRD SCHEDULE

[See sections 32, 38(1) and 105(3)]

PROVISION OF INFRASTRUCTURAL AMENITIES

For resettlement of populations, the following infrastructural facilities and basic minimum amenities are to be provided at the cost of the Requisitioning Authority to ensure that the resettled population in the new village or colony can secure for themselves a reasonable standard of community life and can attempt to minimise the trauma involved in displacement.

A reasonably habitable and planned settlement would have, as a minimum, the following facilities and resources, as appropriate:

Serial No.	Component of infrastructure amenities provided/proposed to be provided by the acquirer of land	Details of infrastructure amenities provided by the acquirer of land
(1)	(2)	(3)
1.	Roads within the resettled villages and an all-weather road link to the nearest pucca road, passages and easement rights for all the resettled families be adequately arranged.	
2.	Proper drainage as well as sanitation plans executed before physical resettlement.	
3.	One or more assured sources of safe drinking water for each family as per the norms prescribed by the Government of India.	
4.	Provision of drinking water for cattle.	
5.	Grazing land as per proportion acceptable in the State.	
6.	A reasonable number of Fair Price Shops.	
7.	Panchayat Ghars, as appropriate.	
8.	Village level Post Offices, as appropriate, with facilities for opening saving accounts.	
9.	Appropriate seed-cum-fertilizer storage facility if needed.	
10.	Efforts must be made to provide basic irrigation facilities to the agricultural land allocated to the resettled families if not from the irrigation project, then by developing a cooperative or under some Government scheme or special assistance.	
11.	All new villages established for resettlement of the displaced persons shall be provided with suitable transport facility which must include public transport facilities through local bus services with the nearby growth centres/urban localities.	
12.	Burial or cremation ground, depending on the caste-communities at the site and their practices.	
13.	Facilities for sanitation, including individual toilet points.	

(1)	(2)	(3)
14.	Individual single electric connections (or connection through non-conventional sources of energy like solar energy), for each household and for public lighting.	
15.	Anganwadi's providing child and mother supplemental nutritional services.	
16.	School as per the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (35 of 2009);	
17.	Sub-health centre within two kilometres range.	
18.	Primary Health Centre as prescribed by the Government of India.	
19.	Playground for children.	
20.	One community centre for every hundred families.	
21.	Places of worship and chowpal/tree platform for every fifty families for community assembly, of numbers and dimensions consonant with the affected area.	
22.	Separate land must be earmarked for traditional tribal institutions.	
23.	The forest dweller families must be provided, where possible, with their forest rights on non-timber forest produce and common property resources, if available close to the new place of settlement and, in case any such family can continue their access or entry to such forest or common property in the area close to the place of eviction, they must continue to enjoy their earlier rights to the aforesaid sources of livelihood.	
24.	Appropriate security arrangements must be provided for the settlement, if needed.	
25.	Veterinary service centre as per norms.	

NOTE.— Details of each component of infrastructural amenities mentioned under column (2) against serial numbers 1 to 25 should be indicated by the acquirer of land under column (3).

THE FOURTH SCHEDULE

(See section 105)

LIST OF ENACTMENTS REGULATING LAND ACQUISITION AND
REHABILITATION AND RESETTLEMENT

1. The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958).
2. The Atomic Energy Act, 1962 (33 of 1962).
3. The Damodar Valley Corporation Act, 1948 (14 of 1948).
4. The Indian Tramways Act, 1886 (11 of 1886).
5. The Land Acquisition (Mines) Act, 1885 (18 of 1885).
6. The Metro Railways (Construction of Works) Act, 1978 (33 of 1978).
7. The National Highways Act, 1956 (48 of 1956).
8. The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962).
9. The Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952).
10. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (60 of 1948).
11. The Coal Bearing Areas Acquisition and Development Act, 1957 (20 of 1957).
12. The Electricity Act, 2003 (36 of 2003).
13. The Railways Act, 1989 (24 of 1989).

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